

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

ROBERT H. PETERSEN, et al.,
Plaintiffs,

vs.

DAIMLER CHRYSLER CORPORATION,
et al.,
Defendants.

ORDER
AND
MEMORANDUM DECISION

Case No. 1:06-CV-00108-TC

This matter comes before the court on the motion in limine filed by Defendant Cooper Tire and Rubber (Cooper) to exclude testimony by Plaintiffs' expert witness, Troy Cottles, on the finite element modeling report. On June 3, 2011, the court held a hearing to determine whether Mr. Cottles qualifies as an expert under Rule 702 of the Federal Rules of Evidence and Daubert v. Merrill Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993) on the issue of finite element modeling and whether Rule 703 permits Mr. Cottles to provide an opinion based on the finite element report prepared by another person. Having considered the record established in pleadings and at the hearing, as well as pertinent law, the court holds that (1) Mr. Cottles does not qualify as an expert witness in the area of finite element modeling, and (2) Mr. Cottles may not adopt the results contained in the finite element modeling report as a basis for his opinion. Accordingly, the court GRANTS IN PART Cooper's motion in limine and excludes any testimony by Mr. Cottles

involving the finite element modeling report.¹

In the same motion, Cooper also asks the court to strike the supplemental reports of Mr. Cottles and Dennis Carlson. This portion of Cooper's motion is DENIED AS MOOT based on the court's previous rulings on adjustment and claims data (Dkt. Nos. 539, 562, and 764) and the court's ruling on Mr. Cottles's ability to testify about the finite element modeling report.

BACKGROUND

Mr. Cottles's Proffered Opinions Regarding Finite Element Modeling

Plaintiffs seek to introduce testimony of Mr. Cottles that a finite element modeling (FEM)² report demonstrates that the subject Cooper tire had a design defect and that Plaintiffs' proposed design changes would have made the tire safer. The FEM report that Mr. Cottles relies on was prepared by Don Lee. Mr. Lee has not been designated as an expert in this case. Rather, Mr. Lee prepared the FEM report at Mr. Cottles's request.

One of Mr. Cottles's proffered opinions is that incorporating his three recommended modifications to the subject tire--adding a belt wedge gum strip, adding a nylon overlay, and widening the belts--results in a reduction of belt edge strain density, which makes the subject tire safer. To support this opinion, Mr. Cottles asked Mr. Lee to "look at those three criteria and

¹This does not affect Mr. Cottles's ability to testify about his tire failure opinions formed independent of the finite element modeling report. It only excludes testimony about or giving an opinion based on finite element modeling.

²The court will use "FEM" to refer to finite element modeling, which is also known as "finite element analysis." FEM testing is a way to model stresses on a hypothetical tire depending on a number of variables and parameters. As an initial matter, the person operating the program must select and input variables into complex mathematical equations generated by a computer program. It is then possible to simulate the stresses placed on a tire under different scenarios. The results depend on the many input values programed into the model.

establish those and then . . . run the Finite Element Model . . . and run numbers on what the belt edge strain density would be.” (Cottles’s Dep. [Ex. A to Dkt. No. 541] 197:10-14.) Aside from providing the three criteria, Mr. Cottles did not participate in preparing the FEM report, does not have the actual model that was created, does not know what raw data Mr. Lee used, and has done little to test or confirm Mr. Lee’s results. (Id. at 203-06.) Mr. Cottles’s conclusions based on the FEM report are derived solely from the information contained in the fourteen-page report produced by Mr. Lee.

Mr. Cottles’s and Mr. Carlson’s Supplemental Reports

On October 27, 2010, Mr. Carlson submitted a supplement to his amended report and Mr. Cottles submitted a supplement to his “second supplemented tire failure analysis report.” Both supplements contain identical language indicating: (1) that the experts have reviewed Cooper’s claims data and the data reflects a high rate of claims for tires manufactured to the 5015 green tire specification; and (2) that the experts have reviewed Cooper’s claims data for all steel belt radial tires and the claims data reinforces Cooper’s awareness of a tread belt separation problem. Mr. Cottles’s supplement contains an additional paragraph indicating that the FEM report supports his opinion that the subject tire is defective and that his proposed modifications would reduce the risk of belt separation.

ANALYSIS

Mr. Cottles’s Proffered Opinions Regarding Finite Element Modeling

1. Mr. Cottles’s Qualification to Testify Under Rule 702

Cooper contends that Mr. Cottles is not qualified as an expert in FEM and cannot merely serve as a conduit for Mr. Lee’s report.

Standards Governing Admissibility of Expert Witness Testimony and Reports

Under the Federal Rules of Evidence, “[i]f scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.” Fed. R. Evid. 702.

Under the evidentiary rule, the court’s inquiry is twofold. First, the court must determine whether the witness is qualified as an expert in the area about which he will testify. United States v. Nacchio, 555 F.3d 1234, 1241 (10th Cir. 2009). At the heart of this determination is the expert’s foundation for the testimony. See Lifewise Master Funding v. Telebank, 374 F.3d 917, 928 (10th Cir. 2004). The fact that “a witness can parrot the results of a model does not mean that he is qualified to explain how the model works or to opine on the statistical validity or interpretation of the results.” Id. Second, the court must determine whether the expert opinion is relevant and reliable. Daubert v. Merrill Dow Pharms., Inc., 509 U.S. 579, 589 (1993).

Mr. Cottles Lacks the Qualifications of an Expert Witness on FEM

Mr. Cottles offers his opinion that the FEM report shows the subject Cooper tire had a design defect and could have been made safer by incorporating his proposed design changes, but Plaintiffs have not demonstrated that Mr. Cottles has the knowledge, skill, experience, training, or education to offer this opinion. Although Mr. Cottles is qualified as a tire failure expert, his opinion on the FEM report falls outside of that expertise. As a result, he appears to be doing nothing more than parroting the results of Mr. Lee’s report.

Mr. Cottles acknowledges that defining the appropriate variables to produce the desired output requires some degree of expertise (Hr'g Tr. 156:22-157:5, June 3, 2011) and admits that he does not have this expertise (id. at 150:19-21). His testimony reveals that he has only limited experience with FEM programming and analysis. While previously working in the tire industry, Mr. Cottles was exposed to, and on occasion used, a “rudimentary” FEM program. (Id. at 156:8-11.) But most of his familiarity with FEM was derived from reviewing reports created by an in-house group of technicians trained in FEM programming. These technicians would select and input data into the program to create reports for review by employees such as Mr. Cottles.

Mr. Cottles's limited experience in reviewing in-house FEM reports differs markedly from his adoption of the results of Mr. Lee's report and does not qualify him as an expert in FEM. In Mr. Cottles's former review of in-house reports, not only were the technicians who created the reports working under the direction and control of Mr. Cottles's company, but Mr. Cottles also enjoyed the benefit of having the employees available to explain the details of how the reports were created. Here, Mr. Cottles had neither of these safe-guards. Although Mr. Lee was working for Mr. Cottles, Mr. Cottles had no direct control over Mr. Lee's work; he simply identified the suggested modifications that he wanted Mr. Lee to test. And Mr. Cottles accepted the conclusions reached in the report without the benefit of any explanation from Mr. Lee on the details of how he created the report.

Although Mr. Cottles may be able to parrot the results contained in Mr. Lee's FEM report, he is not qualified to explain how the FEM model works or to offer an opinion on the statistical validity or interpretation of the results. See Lifewise, 374 F.3d at 928 (excluding expert testimony on a damages model because the purported expert was “not an expert in damages

analysis or in any of the techniques used to create the . . . damages model,” he had “never used the methods used to create the . . . damages model” himself, he confessed that he was not a damages modeler, and he had no training in damages analysis); see also TK-7 Corp. v. Barbouti, 993 F.2d 722, 728 (10th Cir. 1993) (affirming exclusion of witness who was not qualified as an expert); Broadcort Capital Corp. v. Summa Med. Corp., 972 F.2d 1183, 1195 (10th Cir. 1992) (holding that witness with some general experience and education in the field lacked sufficient qualifications to qualify as expert in the area).

Mr. Cottles Lacks Sufficient Information to Determine the Reliability of the FEM Report

Mr. Cottles also lacks an independent and complete understanding of the process Mr. Lee used to produce the FEM report at issue. During his testimony, Mr. Cottles could not identify the specific program that Mr. Lee had used, the number of properties required to create the FEM report, and the data that Mr. Lee had input into the program. Mr. Cottles acknowledged that his belief in the accuracy of the report is based on the fact that the results are consistent with what he would expect them to be. And aside from comparing the anticipated results with Mr. Lee’s actual results, Mr. Cottles cannot test the accuracy of the FEM report. As a result of Mr. Cottles’s limited understanding of the FEM report, the court cannot determine whether the report is based on sufficient facts and data, whether the principles and methods used were reliable, and whether those principles and methods were applied reliably to the facts in this case.

Because Mr. Cottles lacks knowledge, skill, experience, training, and education in FEM analysis, the court finds that Mr. Cottles is not qualified as an expert under Rule 702 to testify about the FEM report. Further, the court finds that Mr. Cottles does not possess sufficient information about how the FEM report at issue was created to allow the court to evaluate the

reliability of his FEM opinions. Accordingly, Cooper's motion is GRANTED IN PART--Mr. Cottles may not present expert opinion testimony under Rule 702 on FEM.

2. Mr. Cottles's Ability to Rely on the FEM Report as a Basis for His Opinion Under Rule 703

Under Rule 703, an expert is allowed "to base an opinion on facts or data not admissible in evidence if of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject."³ TK-7 Corp. v. Estate of Barbouti, 993 F.2d 722, 732 (10th Cir. 1993). But "[f]acts or data that are otherwise inadmissible shall not be disclosed to the jury . . . unless . . . their probative value . . . substantially outweighs their prejudicial effect." Fed. R. Evid. 703.

Mr. Cottles Is Not Sufficiently Familiar With FEM to Base His Opinion on the Report

When a testifying expert relies upon another's conclusions, facts, or data, the expert must have a familiarity with the methods or reasoning used. See TK-7 Corp. 993 F.2d at 732; Dura Auto. Sys. of Indiana v. CTS Corp., 285 F.3d 609, 614 (7th Cir. 2002) ("A scientist, however well credentialed he may be, is not permitted to be a mouthpiece of a scientist in a different specialty."). In TK-7 Corp., the court excluded the testimony of a professed expert after he had submitted an opinion to the court assuming the validity of projections made by another person "despite the fact that [the expert] knew little to nothing at all about [the person who made the projections]." 993 F.2d at 732. Similarly, in Dura Automotive, the court excluded a witness's testimony based on another's conclusions because the witness lacked the necessary expertise to determine whether appropriate methods were used in a complex groundwater model that

³The contents of the FEM report are hearsay and inadmissible under Rule 802 of the Federal Rules of Evidence.

“require[d] the exercise of sound technical judgment in evaluating all available geotechnical data to determine what input values should be used with respect to each parameter utilized.” 285 F.3d at 614.

Here, Mr. Cottles seeks to base⁴ his opinion that the safety of the subject tire would be improved by adding a belt wedge gum strip, adding a nylon overlay, and widening the belts on the results of Mr. Lee’s FEM report. Though Mr. Cottles said he was familiar with FEM reports when he worked in the industry in that they were “available” to him, he is not familiar enough to independently create FEM reports. (Hr’g Tr. 150:22-23.) During his deposition and the June 3 hearing, Mr. Cottles could not provide the input data the Mr. Lee used to construct the FEM report. And, as stated above, Mr. Cottles could not confirm that Mr. Lee’s FEM report was accurate or that the methods used were reliable. Furthermore, Mr. Cottles’s expressed familiarity with Mr. Lee’s credentials as an expert (i.e., that Mr. Lee has fifteen years experience in the tire industry, was a former employee of Hankook Tires, presented a seminar at the Hazard Information Foundation Incorporated conference, and authored a “peer-reviewed” paper⁵ published on the internet) does not reassure the court that Mr. Cottles is sufficiently familiar with Mr. Lee or his qualifications as a reliable expert.

Accordingly, the court finds that Mr. Cottles does not have the requisite familiarity, knowledge, or technical judgment of the methods or reasoning applied by Mr. Lee to be allowed

⁴It is unclear whether Mr. Cottles seeks to base his opinion on the FEM report or whether he seeks to bolster his pre-existing opinion with the report.

⁵At the hearing, Mr. Cottles stated that Mr. Lee’s paper was peer-reviewed but could not provide any further information on the subject.

to present opinions based on the FEM report to the jury. If Mr. Cottles did so, he would effectively be serving as nothing more than a mouthpiece for Mr. Lee.

Mr. Cottles May Not Disclose the FEM Report to the Jury

In addition, Mr. Cottles seeks to present the FEM report to the jury. But because Mr. Cottles lacks sufficient familiarity with the report for him to base his opinions on it, he may not disclose the report to the jury. Even if Mr. Cottles could base his opinions on the report, the court cannot allow the presentation of the FEM report to the jury unless its “probative value . . . substantially outweighs their prejudicial effect.” Fed. R. Evid. 703. Because Mr. Cottles is an undisputed expert in tire failure analysis, and Mr. Lee’s FEM report would merely reinforce Mr. Cottles’s previously constructed conclusions, the admission of the FEM report would not provide significant probative value compared to the prejudicial effect of allowing an absent “expert’s” testimony without allowing Cooper to cross-examine the expert.

Because Mr. Cottles lacks sufficient familiarity, knowledge, and technical judgment of the methods or reasoning applied by Mr. Lee, he may not rely on the FEM report under Rule 703 as a basis for his expert opinion. As a result, Mr. Cottles may not submit the FEM report to the jury. Accordingly, Cooper’s motion is GRANTED IN PART--the FEM report and any opinion based upon the report are inadmissible under Rule 703.

3. Designating Mr. Lee as an Expert Witness

During the June 3 hearing, Plaintiffs suggested that if Mr. Cottles is unable to testify as an expert on FEM or to base his opinions on the FEM report, Plaintiffs should be allowed to designate Mr. Lee as an expert witness. But it is simply too late to allow Plaintiffs to do so. Plaintiffs’ deadline for designating expert witnesses passed on December 21, 2009. (Dkt. No.

282.) And Plaintiffs have known about Mr. Lee's FEM report since at least September 28, 2010. Despite this, Plaintiffs have made no attempt to designate Mr. Lee until the June 3 hearing, during which they offered the designation in light of the possibility that the FEM report would be excluded in its entirety.

The court finds that allowing Plaintiffs to designate Mr. Lee as an expert witness would be prejudicial to Cooper, who perhaps has foregone the possibility of seeking out supplemental experts because of the deadline imposed in Judge Warner's August 3, 2009, scheduling order (Dkt. No. 282). And the court refuses to set a precedent that parties can ignore such important discovery deadlines at this late stage in the proceedings simply because it would strengthen their case to do so. If the court were to so allow, there would be little to prevent parties from adding newly discovered experts until only months or days before trial, preventing cases from moving forward at a reasonable pace.

Mr. Cottles's and Mr. Carlson's Supplemental Reports

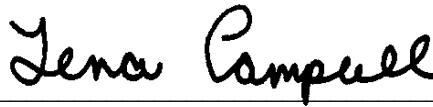
The court DENIES IN PART AS MOOT Cooper's motion based on the court's previous rulings and the court's decision on Mr. Cottles's ability to testify about FEM. To the extent that Mr. Cottles's and Mr. Carlson's supplemental reports are based on a review of Cooper's adjustment and claims data, the court's previous rulings on the admissibility of such data (Dkt. Nos. 539, 562, and 764) render Cooper's motion moot. And to the extent that Mr. Cottles's supplemental report is based on his review of the FEM report, the court's decision today on Mr. Cottles's ability to testify about the FEM report renders Cooper's motion moot.

CONCLUSION

For the foregoing reasons, the court GRANTS IN PART and DENIES IN PART AS MOOT Cooper's motion (Dkt. No. 532). Mr. Cottles may not offer expert opinion testimony about the FEM report and may not rely on the report as a basis for his expert opinions.

SO ORDERED this 22nd day of June, 2011.

BY THE COURT:

A handwritten signature in black ink, reading "Tena Campbell". The signature is written in a cursive, flowing style. The first name "Tena" is written above the second name "Campbell".

TENA CAMPBELL
United States District Judge

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ORDER
AND
MEMORANDUM DECISION

Case No. 1:06-CV-00108-TC

This matter comes before the court on Defendant Cooper Tire and Rubber's (Cooper) motion in limine to admit evidence of the "Wilcox Assignment" (Dkt. No. 523). Because damages in a cause of action for wrongful death are measured at the moment of death and not the date of trial, evidence of the Wilcox Assignment is irrelevant on the issue of damages. Accordingly, the reasons for Kim Wilcox's assignment are inadmissible. And to prevent confusion and unfair prejudice, it is necessary to exclude all evidence of the Wilcox Assignment, including the mere fact of the assignment. The court, therefore, DENIES Cooper's motion.

BACKGROUND

Kim Wilcox was married to Bradley Wilcox (Bradley) at the time of the accident. But Ms. Wilcox, as Bradley's widow, is not a Plaintiff in this case because sometime before this lawsuit was filed, she assigned her interest in any possible recovery to Garth and Kathy Wilcox, Bradley's parents. Cooper seeks to introduce the fact that Ms. Wilcox assigned her interest to Mr.

and Mrs. Wilcox and the reasons for the assignment.

ANALYSIS

Under Utah Code section 78B-3-106, “when the death of a person is caused by the wrongful act or neglect of another, his heirs, or his personal representatives for the benefit of his heirs, may maintain an action for damages against the person causing the death.” Utah Code Ann. § 78B-3-106. Any such wrongful death action “is maintained on behalf of all the heirs of the deceased,” whether they are named plaintiffs or not. Tracy v. Univ. of Utah Hosp., 619 P.2d 340, 342 (Utah 1980); see also Oxendine v. Overturf, 1999 UT 4, ¶11, 973 P.2d 417 (“[W]hen a personal representative brings a wrongful death action, he does so for the benefit of all statutory heirs.”). The damage awards in wrongful death cases “reflect the loss of the individual [heirs].” Oxendine, 1999 UT 4, ¶ 19, 973 P.2d 417. The fact finder must “analyze each heir’s entitlement under the . . . elements ordinarily considered in determining the value of the survivor’s claim.” Id.

Under Utah law, an heir is entitled to assign any interest he or she might have in the recovery from a wrongful death action. In re Behm’s Estate, 213 P.2d 657, 662 (Utah 1950). In allowing such an assignment, the Utah Supreme Court drew a distinction between the cause of action and the heir’s interest in recovery, stating that although “the cause of action cannot be split between the heirs, the amount recovered can be and is.” Id. Accordingly, an heir can assign his or her interest in the recovery without offending the rule that a cause of action for wrongful death is not assignable. Id. But when an heir assigns an interest, the heir “cannot depreciate the assignment by merely saying he does not want the fund he assigned.” Id. at 644.

Although Utah law makes clear that Ms. Wilcox’s assignment of her interest in any

possible recovery in this case is valid, whether the assignment and the reasons for it are admissible appears to be an issue of first impression. The way in which Utah courts have addressed the similar issue of an heir's post-accident, pre-trial remarriage provides guidance for the court.

Utah, like the majority of jurisdictions, has held that evidence of a surviving heir's remarriage at a time subsequent to the accident but before the trial is inadmissible. Shields v. Utah Light & Traction Co., 105 P.2d 347, 351-52 (Utah 1940); see also Annotation, Admissibility of Evidence of, or Propriety of Comment as to, Plaintiff Spouse's Remarriage, or Possibility Thereof, in Action for Damages for Death of Other Spouse, 88 A.L.R.3d 926 (1978) ("Although there is some authority to the contrary, it has generally been held that in an action for the wrongful death of a married person, evidence of the surviving spouse's remarriage is irrelevant on the question of mitigation of damages, and hence not admissible in evidence where offered only for that purpose."); Stuart M. Speiser & James E. Rooks, Jr., Recovery for Wrongful Death § 9:15 (4th ed. 2010) ("The majority rule that the remarriage of decedent's spouse will not reduce or mitigate damages in the wrongful death action is firmly entrenched."). The Utah Supreme Court's decision, like the decisions from other courts following the majority rule, was largely based on the "generally followed [principle] . . . that the pecuniary loss to the beneficiaries is to be based upon conditions as they existed at the time of the death complained of." Shields, 105 P.2d at 351.

Although the Utah Supreme Court was faced with the specific question of whether the remarriage of the surviving mother of the decedent was admissible, the decision in Shields, by its own terms, has a broader reach. The court defined the question before it as "whether in this

jurisdiction the damage should be measured as of the moment of death or, for all practical purposes, the day of the trial.” Id. And the court held that “the fairest way to ascertain ‘such damages * * * as under all the circumstances of the case may be just’ is to limit the inquiry on this issue to the moment of death.” Id. (internal citation omitted). In arriving at this conclusion, the court noted the “salient weakness” of the minority rule measuring damages on the day of trial: “if evidence of a change in the financial condition of a beneficiary for the better occurring subsequent to death but before trial is admissible, reason would require that likewise evidence of the sudden poverty or misfortune of the statutory party after the time of death and before trial should be received.” Id.

Here, evidence of the Wilcox Assignment is inadmissible to mitigate damages because Shields makes clear that under Utah law, damages for wrongful death are measured at the moment of death and that changed circumstances occurring after death but before trial are irrelevant. Because Ms. Wilcox assigned her interest to her husband’s parents sometime after his death, the fact of her assignment is irrelevant on the question of mitigation of damages and accordingly is inadmissible for that purpose. Because the fact of Ms. Wilcox’s assignment is inadmissible to mitigate damages, so too are the reasons for her assignment.¹

But this does not end the inquiry. Though evidence of the Wilcox Assignment is not relevant to the question of damages, it may be admissible for some other purpose. Again, the way

¹In allowing an heir to assign his or her interest, the Utah Supreme Court made clear that the heir could not decrease the value of the assignment merely by saying he or she does not want the interest assigned. In re Behm’s Estate, 213 P.2d at 644. Accordingly, in addition to being irrelevant for the reasons discussed above, evidence of Ms. Wilcox’s reasons for the assignment cannot be used to decrease the value of the claim she assigned.

in which courts have addressed this issue as it pertains to remarriage is informative.

Among the jurisdictions following the majority rule that remarriage is inadmissible on the question of mitigation of damages, there is a split in authority on whether the mere fact of a surviving spouse's remarriage may be brought out in a wrongful death action. In one of the earliest cases admitting the fact of remarriage, the New Jersey Supreme Court held that "the mere fact of a plaintiff's remarriage should not be kept from the jury," rather, the "trial judge should instruct the jury, at the beginning of the case, that the plaintiff has remarried but that this fact is to play no role in their determination of the pecuniary advantage which would have resulted from a continuance of the life of the deceased." Dubil v. Labate, 245 A.2d 177, 180 (N.J. 1968). The court reasoned that to hold otherwise "would be offensive to the integrity of the judicial process. . . . [T]he desirable exclusion of evidence relating to the remarriage may not be carried to the point of affirmatively misrepresenting the truth to the jury." Id. And the court found that "in the course of the trial of a wrongful death case, it would be virtually impossible to avoid mention of a remarriage without resorting to untruths." Id.

Other courts following the Dubil approach have similarly based their decisions on the dishonesty that excluding all mention of remarriage would require. See, e.g., Smyer v. Gaines, 332 So. 2d 655, 658 (Fla. Dist. Ct. App. 1976) (discussing a portion of Florida Wrongful Death Act allowing fact of remarriage for purpose of "allowing the truth to be known and to keep the court from having to participate in a fraud upon the jury"); Watson v. Fischbach, 301 N.E.2d 303, 306 (Ill. 1973); Glick v. Allstate Ins. Co., 435 S.W.2d 17, 23 (Mo. Ct. App. 1968). The rationale underlying these decisions is two-fold. First, when the case involves a female widow who has remarried, the court is presented with the choice of misrepresenting the woman's name

to the jury (using the deceased former spouse's surname) or using her current legal name, which runs the risk that the jury will speculate as to why she does not share the decedent's name.

Second, exclusion of any mention of remarriage might complicate the parties' ability to effectively question potential jurors during *voir dire* to determine if any have a relationship with the plaintiff's new spouse.

Several jurisdictions have maintained that all evidence of a surviving spouse's remarriage is inadmissible, including the mere fact of remarriage. See, e.g., Benwell v. Dean, 57 Cal. Rptr. 394, 402-03 (Ct. App. 1967); Helmick v. Netzley, 12 Ohio Misc. 97, 97, 229 N.E.2d 476, 477 (1967); Rodak v. Fury, 298 N.Y.S.2d 50, 53 (N.Y. App. Div. 1969); Wiesel v. Cicerone, 261 A.2d 889, 895 (R.I. 1970). These decisions are largely based on the concern that admitting the mere fact of the remarriage "could very well have a tendency to confuse the jury and adversely prejudice the plaintiff," and would be "putting a premium on form and overlooking substance." Wiesel, 261 A.2d at 895.

Consistent with the full-exclusion approach, the Tenth Circuit has upheld an order excluding any mention of remarriage, because such evidence "was completely irrelevant." Nichols v. Marshall, 486 F.2d 791, 794 (10th Cir. 1973). The Tenth Circuit was unconvinced by the defendant's argument that his right to *voir dire* was prejudiced by the order excluding any mention of remarriage and noted that "counsel would be very unimaginative if, as he claims, he could not adequately question the jurors without disclosing that [the plaintiff] had remarried." Id.

Here, the reasons underlying the decisions to admit the mere fact of remarriage are not present. Unlike the situation presented by a surviving spouse who has remarried, the Wilcox Assignment creates no issues for *voir dire*; there simply is not an additional party that potential

jurors must be questioned about as a result of the assignment. And the court will not be put in the position of misrepresenting Ms. Wilcox's status to the jury; as one of her husband's heirs, Ms. Wilcox is entitled to recover regardless of whether she is a named Plaintiff. See Tracy v. Univ. of Utah Hosp., 619 P.2d 340, 342 (Utah 1980). Even the Dubil court acknowledged that evidence of remarriage presents a unique problem unlike other categories of evidence, such as insurance coverage, because it is nearly impossible to keep the fact of remarriage from the jury without resort to untruths. 245 A.2d at 180. Here, it will be possible to keep the Wilcox Assignment from the jury without resorting to untruths.

Further, the court finds that the rationale of courts applying the full-exclusion rule is persuasive. Admitting the fact of the Wilcox Assignment could very well tend to confuse the jury and prejudice Plaintiffs, especially given the infrequency with which such assignments take place.² This potential for confusion is greater than that created by the possibility, as Cooper contends, of having differently styled jury verdict forms for Bradley Wilcox as compared to other married decedents.³ As the Tenth Circuit noted in Nichols, this court and counsel for both parties would have to be very unimaginative if they collectively are unable to style a jury verdict form that simultaneously will not disclose the fact of the Wilcox Assignment and will not confuse the jury.

² When compared with the remarriage of a surviving spouse, the uniqueness of Ms. Wilcox's assignment increases the likelihood that the mere fact of the Wilcox Assignment would confuse the jury and prejudice the Plaintiffs.

³ The likelihood that the jury verdict form will cause confusion is almost entirely alleviated by fact that the court can instruct the jury that all wrongful death actions in Utah are maintained on behalf of all of the decedent's heirs, whether named plaintiffs or not.

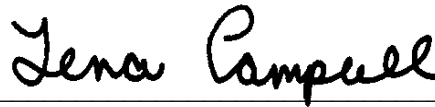
Accordingly, the fact that Ms. Wilcox assigned her interest, the reasons for her assignment, and the mere mention of the Wilcox Assignment are inadmissible. If, however, Plaintiffs open the door, such evidence may become relevant. But both parties are strongly instructed not to wander into issues touching on the assignment.

CONCLUSION

For the foregoing reasons, the court DENIES Cooper's motion to admit evidence of the Wilcox Assignment (Dkt. No. 523).

SO ORDERED this 22nd day of July, 2011.

BY THE COURT:

A handwritten signature in black ink, reading "Tena Campbell", written in a cursive style. The signature is positioned above a horizontal line.

TENA CAMPBELL
United States District Judge

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IN THE UNITED STATES DISTRICT COURT
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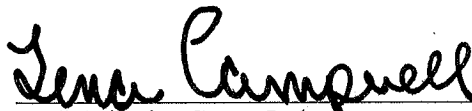
**ORDER GRANTING LEAVE TO FILE
OVER-LENGTH MEMORANDUM**

Civil No. 1:06-CV-00108 TC
Judge: Tena Campbell

This matter comes on before the Court upon the Plaintiffs' Motion for Leave to File Over-Length Memorandum. Having considered all relevant argument and/or briefs, the Court finds that it is just and appropriate to sustain Plaintiffs' motion.

IT IS THEREFORE ORDERED that Plaintiffs be granted leave to file over-length memorandum.

DATED this 21 day of June, 2011.

A handwritten signature in black ink, reading "Tena Campbell", written over a horizontal line.

U. S. District Court Judge
The Honorable Tena Campbell

Magistrate Judge:
The Honorable Paul M. Warner

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

JAMES DURAN,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ORDER

Case No. 1:08CV44 DAK

This court denied Mr. Duran’s § 2255 Petition on July 1, 2010. Mr. Duran then appealed the court’s decision, and this court permitted him to proceed in forma pauperis on appeal. The Tenth Circuit, however, declined to issue a Certificate of Appealability on January 19, 2011, and therefore his appeal was dismissed. Mr. Duran then filed a motion to stay the proceedings, which this court forwarded to the Tenth Circuit. The Tenth Circuit, on February 19, 2011, denied the motion without prejudice and explained that, “to the extent [Mr. Duran] wishes to argue that the record on appeal is complete and should be supplemented, he may do so in his petition for rehearing, if he elects to file such a petition. (Any petition for rehearing must be filed on or before March 7, 2011.).”¹ On April 22, 2011, the Tenth Circuit unanimously voted to deny rehearing.²

¹ See Docket No. 44, Order Dated February 18, 2011.

² See Docket No. 47.

Although the instant case has been dismissed, the appeal has been denied, and rehearing has been denied, Mr. Duran continues to file motions in this court. First, he requests that this court use red letters to indicate “legal mail” on anything sent to him. He has also filed a motion seeking to disqualify the undersigned judge because of an alleged bias, and he also appears to seek reconsideration of his § 2255 petition. This court, however, has no authority to reconsider the petition, as it has already been denied by the Tenth Circuit.

Because Mr. Duran no longer has an active case pending in this court, these motions are moot. The court will not consider any further motions that are filed in the instant case.

CONCLUSION

For the foregoing reasons, IT IS HEREBY ORDERED that Petitioner’s Motions {Docket Nos. 50 & 51} are denied as MOOT. The Clerk of Court is directed write “Legal Mail” in red ink on the envelope sent to Mr. Duran containing a copy of this order.

DATED this 21st day of June, 2011.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball", written over a horizontal line.

DALE A. KIMBALL
United States District Judge

Submitted by:

Darrel J. Bostwick (4543)

Joseph D McAllister (12162)

BOSTWICK & PRICE, P.C.

139 East South Temple St., Suite 320

Salt Lake City, Utah 84111

Telephone: (801) 961-7400

Facsimile: (801) 961-7406

Attorneys for Rupp Trucking & Enterprises, Inc.

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

RUPP TRUCKING & ENTERPRISES, INC.;
RUPP TRUCKING & EXCAVATING, INC.,

Plaintiffs,

vs.

SOLARE LAND HOLDINGS, LLC; JIM
DORWARD; SHERRY FUNKE; JEFFREY S.
STRONG, TRUSTEE; VIKRAM GARG,
TRUSTEE; E. BRETT AND AMY HORSLEY;
MONTE CARLSON PROPERTIES, LLC;
MICHELE B. GOBLE, TRUSTEE; VILLAMI
AND PATRICIA HALAUFIA; DOUGLAS K.
AND ALICA M. LEMON; BRUCE K. AND
JANET PARKER; CARLOS B. ROUNDY,
TRUSTEE; JUDITH TORRES; SHERMAN R.
AND REBECCA CONGER; RUTH ANN
MARSHALL, TRUSTEE; BRYCE AND
LAURIE FIFIELD; HARRY AND MEI-LING
SCHWARTZ, GRANITE EXCAVATION
LLC.; CACHE-LANDMARK
ENGINEERING INC.; and IRWIN UNION
BANK AND TRUST COMPANY,

Defendants.

**ORDER OF DISMISSAL WITH
PREJUDICE**

Civil No. 1:09-CV-00163DAK

Judge Dale A. Kimball

The Stipulation and Joint Motion of the parties having been considered by the Court and with good cause appearing therefor, it is ORDERED, ADJUDGED AND DECREED that the above entitled action is hereby dismissed with prejudice, with each of the parties to bear its own costs and attorney fees.

DATED this 22nd day of June, 2011.

BY THE COURT



Dale A. Kimball
DISTRICT COURT

APPROVED AS TO FORM:

BENNETT TUELLER JOHNSON & DEERE

/s/ Benjamin D. Johnson
Benjamin D. Johnson
Eric C. Goodrich
Attorneys for Defendant Solare Land Holdings, LLC

WOOD CRAPO

/s/ Jared M. Asbury
Mary Anne Q. Wood
Jared M. Asbury
*Attorneys for The Federal Deposit Insurance Corporation
as Receiver for Irwin Union Bank and Trust Company*

BOSTWICK & PRICE

/s/ Joseph D McAllister
Darrel J. Bostwick
Joseph D McAllister
Attorneys for Plaintiff Rupp Trucking & Enterprises

UNITED STATES DISTRICT COURT

U.S. DISTRICT COURT

Northern

District of

Utah

UNITED STATES OF AMERICA 2011 JUN 22 P 1:50 JUDGMENT IN A CRIMINAL CASE

V.

DISTRICT OF UTAH

Rodney DeWayne Burleson BY:

Case Number:

DUTX 1:10CR00137-001 TC

DEPUTY CLERK

USM Number:

17656-081

Daniel Drage

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One and Two of the Indictment

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 922(g)(1)	Felon in Possession of a Firearm		1 and 2

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

06/07/2011

Date of Imposition of Judgment

Signature of Judge

Tena Campbell

Name and Title of Judge

United States District Court Judge

Date

6-17-2011

DEFENDANT: Rodney DeWayne Burleson
CASE NUMBER: 1:10CR00137-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

12 Months and 1 Day

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant serve his sentence at an appropriate level facility as near to Utah as possible.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 12:00 p.m. on 7/19/2011

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

DEFENDANT: Rodney DeWayne Burleson
CASE NUMBER: 1:10CR00137-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Rodney DeWayne Burleson
CASE NUMBER: 1:10CR00137-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant will submit to drug/alcohol testing under a copayment plan as directed by the USPO.
2. The defendant shall participate in a substance abuse evaluation and/or treatment under a copayment plan as directed by the USPO. During the course of treatment, the defendant shall not consume alcohol nor frequent any establishment where alcohol is the primary item of order.
3. The defendant shall submit his person, residence, office or vehicle to a search, conducted by a USPO at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

DEFENDANT: Rodney DeWayne Burleson
CASE NUMBER: 1:10CR00137-001 TC

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 200.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ _____ 0	\$ _____ 0
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Rodney DeWayne Burleson
CASE NUMBER: 1:10CR00137-001 TC

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 200.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

Smith & Wesson .357 caliber revolver, serial number 36K6066; a Hi-Point JHT .45-caliber handgun, serial number X493770; and a Remington .12-gauge shotgun, serial number X08191M.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT

Northern

U.S. DISTRICT COURT
District of

Utah

UNITED STATES OF AMERICA

2011 JUN 22 P 1

JUDGMENT IN A CRIMINAL CASE

V.

DISTRICT OF UTAH

James Edward Dean

BY:

Case Number:

DUTX 1:10CR00160-001 TC

DEPUTY CLERK

USM Number:

17757-081

Stephen McCaughey

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 2113(a) and (d)	Armed Credit Union Robbery		1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

06/07/2011

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell

United States District Court Judge

Name and Title of Judge

6-17-2011

Date

DEFENDANT: James Edward Dean
CASE NUMBER: 1:10CR00160-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

100 Months

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court strongly recommends the defendant participate in RDAP and serve his sentence at a USP in Virginia.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: James Edward Dean
CASE NUMBER: 1:10CR00160-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

60 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: James Edward Dean
CASE NUMBER: 1:10CR00160-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant will submit to drug/alcohol testing as directed by the probation office.
2. The defendant shall participate in a substance-abuse evaluation and/or treatment under a co-payment plan as directed by the probation office. During the course of treatment, the defendant shall not consume alcohol nor frequent any establishment where alcohol is the primary item of order.
3. The defendant shall submit his person, residence, office or vehicle to a search, conducted by a USPO at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
4. The defendant shall not have any contact with any member or associate of a criminal street gang/prison gang either in person, by mail, by phone, by e-mail, by third person, or by any other method.
5. The defendant shall not possess materials which give evidence of criminal street gang/prison gang involvement or activity.
6. The defendant shall not receive any new tattoos associated with a criminal street gang or prison gang.
7. The defendant shall not wear clothing or other items which may be identified with a criminal street gang/prison gang.

DEFENDANT: James Edward Dean
CASE NUMBER: 1:10CR00160-001 TC

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$ 3353.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Goldenwest Credit Union 174 26 th Street Ogden, UT 84401	3,353.00	3,353.00	

TOTALS	\$	<u>3353.00</u>	\$	<u>3353.00</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: James Edward Dean
CASE NUMBER: 1:10CR00160-001 TC

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
- Regular Restitution payments to begin immediately, and shall be payable at a minimum rate of \$10.00 per month while incarcerated and a minimum rate of \$100 per month upon release from incarceration, or as otherwise determined by the USPO. The Court waives the accrual of interest.**

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

DEBRA D. THACH,
Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,
Defendant.

**ORDER FOR PRO HAC VICE
ADMISSION**

Case No. 1:10-cv-136-SA

Magistrate Judge Samuel Alba

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), **IT IS HEREBY ORDERED** that the motion for the admission pro hac vice of Jessica Milano in the United States District Court, District of Utah, in the subject case (Doc. 26) is **GRANTED**.

DATED this 21st day of June, 2011.

BY THE COURT:



Samuel Alba
United States Magistrate Judge

UNITED STATES DISTRICT COURT
U.S. DISTRICT COURT

Central District of Utah

UNITED STATES OF AMERICA

v.

DISTRICT OF UTAH

Judgment in a Criminal Case

(For Revocation of Probation or Supervised Release)

Doyle Eugene Smith

DEPUTY CLERK

Case No.

DUTX 2:06CR00826-001 TC

USM No.

14064-081

Jamie Zenger

Defendant's Attorney

THE DEFENDANT:

☒ admitted guilt to violation of condition(s) Allegations 1, 2, 3 of the Petition of the term of supervision.

☐ was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

Violation Number

Nature of Violation

Violation Ended

1.

On or about 5/14/2011, the defendant committed another federal, state or local crime, to wit: Public Intoxication.

2.

On or about 5/14/2011, the defendant consumed or possessed alcohol.

3.

On 4/27/2009, the defendant committed another federal, state, or local crime, to wit: Fleeing a Peace Officer, a Class B Misdemeanor.

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has not violated condition(s) _____ and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Last Four Digits of Defendant's Soc. Sec. No.: 7494

Defendant's Year of Birth: 1969

City and State of Defendant's Residence:

Taylorsville, Utah

06/06/2011

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell

United States District Court Judge

Name and Title of Judge

6-17-2011

Date

DEFENDANT: Doyle Eugene Smith
CASE NUMBER: 2:06CR00826-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

10 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Doyle Eugene Smith
CASE NUMBER: 2:06CR00826-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. All previously imposed special conditions are reimposed.
2. The defendant shall be placed on home confinement for 3 months. The dft is restricted to his residence at all times, except for work, treatment or activities pre-approved by the probation office.

**United States District Court
for the District of Utah**

**Request and Order for Modifying Conditions of Supervision
With Consent of the Offender**
(Waiver of hearing attached)

Name of Offender: **Jerald Thomas Knight**

Docket Number: **2:07-CR-00014-001-DB**

Name of Sentencing Judicial Officer: **Honorable Dee Benson
U.S. District Judge**

Date of Original Sentence: **May 3, 2011**

Original Offense: **Possession of Child Pornography**

Original Sentence: **10 days BOP Custody/60 Months Supervision**

Type of Supervision: **Supervised Release**

Supervision Began: **June 8, 2011**

FILED
 U.S. DISTRICT COURT
 2011 JUN 22 A 10:
 DISTRICT OF UTAH
 BY: DEPUTY CLERK

PETITIONING THE COURT

☒ To modify the conditions of supervision as follows:


1. The defendant shall participate in an evaluation for sexual deviancy by a qualified mental health professional who is experienced in the treatment and management of sexual offenders, such as a member of the Association for the Treatment of Sexual Abusers (ATSA). The evaluation may include polygraph or computer voice stress analyzer testing. The defendant agrees to waive any right to confidentiality and allow the treatment provider conducting the psycho-sexual evaluation to supply written reports to the United States Probation Officer. The cost of the evaluation shall be paid by both the government and defendant in monthly payments as arranged by the probation officer.
2. The defendant shall successfully complete any course of treatment related to this offense, as directed by the probation officer, including but not limited to cognitive/behavioral treatment for sexual deviancy by a qualified mental health professional who is experienced in the treatment and management of sexual offenders, such as a member of the Association for the Treatment of Sexual Abusers (ATSA). The defendant agrees to waive any right to confidentiality and allow the treatment provider conducting treatment to supply written reports to the U.S. Probation Officer. The defendant will follow the rules of the treatment program as if they were the orders of the court. The cost of treatment shall be paid by both the government and defendant in monthly payments as arranged by the probation officer.
3. The defendant shall participate in polygraph or computer voice stress analyzer testing to monitor his compliance with supervised release and treatment conditions, at the direction of the U.S. Probation Officer and treatment staff. The cost of testing shall be paid by both the government and defendant in monthly payments as arranged by the probation officer.

4. Upon the approval of the probation officer, the defendant shall consent to the United States Probation Office conducting ongoing monitoring of his/her computer(s), hardware, and software, and other electronic devices/media. The monitoring may include the installation, at the defendant's expense, of hardware or software systems which allows evaluation of his/her computer use. Monitoring may also include the retrieval and copying of all data from his/her computer(s) or other electronic devices/media. Monitoring may occur at any time with or without reasonable suspicion of violations of supervised release or probation. The defendant shall also comply with the requirements of the United States Probation Computer Monitoring Program as directed.
5. The defendant shall not be present in any location where children could reasonably be expected to be present without being accompanied by a responsible adult approved by the probation officer. This includes establishments such as fast food restaurants, playgrounds, public parks, day care centers, skating rinks, amusement parks, etc.

CAUSE

On June 13, 2011, the defendant reported to the probation office. The defendant was provided reporting instructions for supervision to commence in the District of Idaho. The defendant has not completed a psycho-sexual evaluation or polygraph examination, and during his initial meeting with his probation officer, he denied culpability and maintains his innocence although he pled guilty to the offense. The District of Idaho believes that a psycho-sexual evaluation is essential determining Mr. Knight's habilitation needs and how best to protect the community. On June 17, 2011, the defendant signed a waiver to modify the conditions of his release to include a psycho-sexual evaluation and polygraph or computer voice stress analyzer testing.

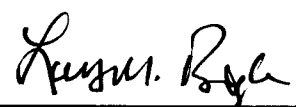
I declare under penalty of perjury that the foregoing is true and correct



Kelly Copley, U.S. Probation Officer
Date: June 22, 2011

THE COURT ORDERS:

- ☒ The modification of conditions as noted above
☐ No action
☐ Other



Larry H. Boyce, for
Honorable Dee Benson
U.S. District Judge

Date: June 22, 2011

**UNITED STATES DISTRICT COURT
District of Utah**

**Waiver of Hearing to Modify Conditions of
Probation/Supervised Release or Extend Term of Supervision**

U.S. v. Jerald Knight

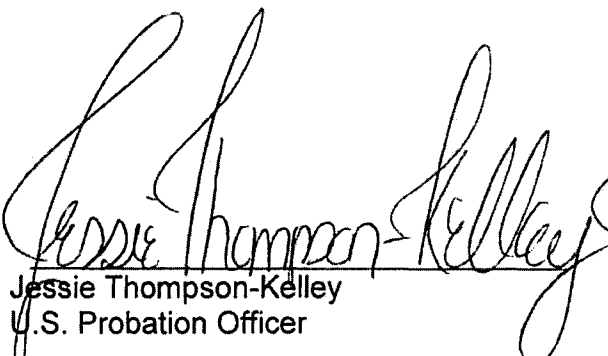
Dkt. No.: 1088 2:07CR00014-001

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

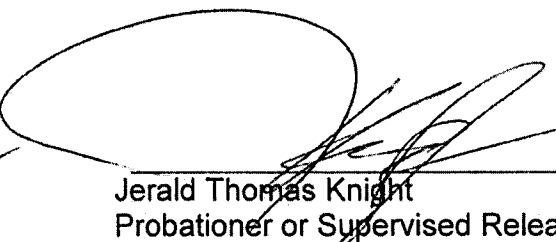
I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation or Supervised Release or to the proposed extension of my term of supervision:

- 1) The defendant shall participate in an evaluation for sexual deviancy by a qualified mental health professional who is experienced in the treatment and management of sexual offenders, such as a member of the Association for the Treatment of Sexual Abusers (ATSA). The evaluation may include polygraph or computer voice stress analyzer testing. The defendant agrees to waive any right to confidentiality and allow the treatment provider conducting the psycho-sexual evaluation to supply written reports to the United States Probation Officer. The cost of the evaluation shall be paid by both the government and defendant in monthly payments as arranged by the probation officer.
- 2) The defendant shall successfully complete any course of treatment related to this offense, as directed by the probation officer, including but not limited to cognitive/behavioral treatment for sexual deviancy by a qualified mental health professional who is experienced in the treatment and management of sexual offenders, such as a member of the Association for the Treatment of Sexual Abusers (ATSA). The defendant agrees to waive any right to confidentiality and allow the treatment provider conducting treatment to supply written reports to the U.S. Probation Officer. The defendant will follow the rules of the treatment program as if they were the orders of the court. The cost of treatment shall be paid by both the government and defendant in monthly payments as arranged by the probation officer.
- 3) The defendant shall participate in polygraph or computer voice stress analyzer testing to monitor his compliance with supervised release and treatment conditions, at the direction of the U.S. Probation Officer and treatment staff. The cost of testing shall be paid by both the government and defendant in monthly payments as arranged by the probation officer.

- 4) Upon the approval of the probation officer, the defendant shall consent to the United States Probation Office conducting ongoing monitoring of his/her computer(s), hardware, and software, and other electronic devices/media. The monitoring may include the installation, at the defendant's expense, of hardware or software systems which allows evaluation of his/her computer use. Monitoring may also include the retrieval and copying of all data from his/her computer(s) or other electronic devices/media. Monitoring may occur at any time with or without reasonable suspicion of violations of supervised release or probation. The defendant shall also comply with the requirements of the United States Probation Computer Monitoring Program as directed.
- 5) The defendant shall not be present in any location where children could reasonably be expected to be present without being accompanied by a responsible adult approved by the probation officer. This includes establishments such as fast food restaurants, playgrounds, public parks, day care centers, skating rinks, amusement parks, etc.



Jessie Thompson-Kelley
U.S. Probation Officer



Jerald Thomas Knight
Probationer or Supervised Releasee

June 17, 2011

Date

UNITED STATES DISTRICT COURT
U.S. DISTRICT COURT

Central District of Utah

UNITED STATES OF AMERICA

v.

DISTRICT OF UTAH

Judgment in a Criminal Case

(For Revocation of Probation or Supervised Release)

BY: DEPUTY CLERK

Anthony Lee Haas

Case No. DUTX 2:07CR00419-001 TC

USM No. 14735-081

Audrey K. James

Defendant's Attorney

THE DEFENDANT:

- ☒ admitted guilty to violation of condition(s) Allegations 1, 2 and 4 of the Petition of the term of supervision.
☐ was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1.	On or about 2/16/2011, the defendant committed another federal, state or local crime, to wit: Possession of a Controlled Substance.	
2.	Sometime in January, 2011, the defendant committed another federal, state or local crime to wit: Domestic Assault.	
4.	On 2/4/2011, the defendant admitted to using methamphetamine.	

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☒ The defendant has not violated condition(s) Allegation #3 and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Last Four Digits of Defendant's Soc. Sec. No.: 0842

Defendant's Year of Birth: 1978

City and State of Defendant's Residence:
Taylorsville, Utah

06/17/2011

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell United States District Court Judge
Name and Title of Judge

6-22-2011

Date

DEFENDANT: Anthony Lee Haas
CASE NUMBER: 2:07CR00419-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

TIME SERVED

- ☐ The court makes the following recommendations to the Bureau of Prisons:
- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at _____ ☐ a.m. ☐ p.m. on _____
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on _____
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Anthony Lee Haas
CASE NUMBER: 2:07CR00419-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

24 Months Supervised Release

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Anthony Lee Haas
CASE NUMBER: 2:07CR00419-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. All previously imposed special conditions are reimposed.
2. The defendant shall successfully complete the RISE Drug Court Program, as directed by the Court and the Probation Office.
3. The defendant shall not use or possess alcohol, nor frequent businesses where alcohol is the chief item of order.
4. The defendant shall participate in drug and/or alcohol abuse treatment under a copayment plan as directed by the USPO.
5. The defendant shall participate in a location monitoring program for a period of 180 days, which may include electronic or non-electronic means, i.e. global positioning satellite tracking (GPS), radio frequency, voice verification tracking, or other services as determined by the USPO. The defendant is restricted to his residence at all times, except for activities pre-approved by the USPO. The defendant shall pay \$2.00 per day to partially defray the costs of the program.
6. The defendant is to have no contact with Sadie McKenna.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

ERIKA CREECH, DAVID ELDER,
TYLER JONES, CODY THYGESEN,
JULIE OLSEN, and JORDAN
SCHWEIZER,

Plaintiffs,

vs.

STRYKER CORPORATION and
STRYKER SALES CORPORATION,

Defendants.

TRIAL ORDER

Case No. 2:07CV22 DAK

This case is set for a twelve-day jury trial beginning on **Monday, February 13, 2012** at 8:30 a.m.¹ In order to expedite the conduct of the trial in this case, counsel are instructed as follows:

A. Proposed Voir Dire and Verdict Form

1. Proposed Voir Dire

The parties are directed to file any proposed voir dire by no later than **February 8, 2012**.

2. Special Verdict Form

The parties are directed to file a proposed special verdict form by no later than **February 9, 2012**. In addition to filing a proposed special verdict form, the parties shall also send the proposed special verdict form by email to ["utdecf_kimball@utd.uscourts.gov"](mailto:utdecf_kimball@utd.uscourts.gov) in WordPerfect or

¹ The court will be closed on President's Day, February 20, 2012. The trial will run from Monday, February 13 through Wednesday, February 29, 2012.

Word format.

B. Jury Instructions

A copy of the court's stock civil jury instructions are attached to this Trial Order. The stock jury instructions should *not* be resubmitted to the court with the parties' proposed jury instructions. All applicable stock jury instructions will be used at trial, absent a compelling reason why a particular instruction should be modified or should not be used. The parties shall not, absent a compelling reason, submit instructions that are duplicative of the stock jury instructions.

All additional substantive jury instructions must be submitted according to the following procedure:

1. The parties are required to jointly submit one set of *stipulated* final instructions. To this end, the parties are directed to serve, by email, their proposed instructions upon each other by **12:00 noon on Friday, January 13, 2012**. These proposed instructions should *not* be filed with the court. After exchanging the proposed instructions, the parties must then meet and confer in an attempt to agree on a single set of jury instructions, to the extent possible.
2. The parties are expected to agree upon the majority of the substantive instructions for the case. These instructions shall be filed as "Proposed Stipulated Jury Instructions." If the parties cannot agree upon a complete set of final instructions, each party may also file its own set of supplemental instructions, which are instructions to which the parties could not stipulate.
3. The "Proposed Stipulated Jury Instructions" and each party's "Proposed

Supplemental Jury Instructions,” both of which must include citations to authority, shall be filed by **12:00 noon on Wednesday, January 25, 2012**. In addition to filing these documents, the parties shall, on the same date, send by email (in WordPerfect or Word format) the Proposed Stipulated Jury Instructions and any Proposed Supplemental Jury Instructions to the chambers email address listed above.

4. By no later than **12:00 noon on Friday, February 3, 2012** each party is directed to file any objections to the Proposed Supplemental Jury Instructions filed by the other party. All such objections must recite the proposed disputed instruction in its entirety and specifically highlight the objectionable language in the proposed instruction. Each objection must contain citations to authority and a concise argument explaining why the instruction is improper. If applicable, the objecting party should submit an alternative instruction addressing the subject or principle of law. On the same date, the party filing objections shall also send by email (in WordPerfect or Word format) the objections to the chambers email address listed above.
5. By no later than **12:00 noon on Friday, February 10, 2012**, the parties may file and serve a concise written argument supporting their proposed instructions to which the other party has objected.

C. Pretrial Order

The parties are directed to file a stipulated Pretrial Order by no later than **January 11,**

2012. The form of the Pretrial Order should generally conform to the court-approved form, which is reproduced as Appendix IV to the Local Rules of Practice.

D. Motions in Limine

All motions in limine shall be filed by **January 19, 2012**. Responses to the motions shall be filed by **January 26, 2012**. Any reply memoranda shall be filed by **12:00 noon on Thursday, February 2, 2012**. A hearing on the motions in limine, if necessary, will be held during the week of **February 6, 2012**.

E. Exhibits

All exhibits must be premarked before trial. Plaintiffs' exhibits should be marked numerically, and Defendants' exhibits should be marked alphabetically.

F. Trial Schedule

The court runs its trial schedule from 8:30 a.m. to approximately 2:00 p.m., with two fifteen-minute breaks.

G. Pretrial Conference

In light of this Trial Order, no pretrial conference is needed, unless specifically requested by a party.

DATED this 21st day of June, 2011.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball". The signature is written in a cursive, flowing style. The first name "Dale" is written in a larger, more prominent script, followed by "A." and "Kimball".

DALE A. KIMBALL
United States District Judge

JUDGE KIMBALL'S
STOCK JURY INSTRUCTIONS
CIVIL CASES

(Some instructions might not apply or might need to be tailored to the specific case)

JURY INSTRUCTION NO. ____

Now that you have heard the evidence and are about to hear the argument, it is my duty to give you the instructions of the Court concerning the law applicable to this case. It is your duty as jurors to follow the law as stated in the instructions of the Court and to apply the rules of law to the facts as you find them from the evidence in the case. You are not to single out one instruction alone as stating the law but must consider the instructions as a whole.

Neither are you to be concerned with the wisdom of any rule of law stated by the Court. Regardless of any opinion you may have as to what the law is or ought to be, it would be a violation of your sworn duty, as judges of the facts, to base a verdict upon anything but the law as I instruct you and the evidence in the case.

Nothing I say in these instructions is to be taken as an indication that I have any opinion about the facts of the case, or what that opinion is. It is not my function to determine the facts; it is your function as jurors.

Justice through trial by jury depends upon the willingness of each individual juror to seek the truth as to the facts from the same evidence presented to all the jurors, and to arrive at a verdict by applying the same rules of law, as given in these instructions. You are to perform this duty without bias or prejudice as to any party. Our system of law does not permit jurors to be governed by sympathy, prejudice, or public opinion. Both the parties and the public expect that you will carefully and impartially consider all the evidence in the case, follow the law as stated by the Court, and reach a just verdict, regardless of the circumstances.

JURY INSTRUCTION NO. ____

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits received in evidence, all facts that may have been admitted or stipulated, and the applicable presumptions that will be stated in these instructions.

Statements and arguments of counsel are not evidence in this case. When, however, the attorneys on both sides stipulate or agree as to the existence of a fact, the jury must, unless otherwise instructed, accept the stipulation and regard that fact as conclusively proved.

During the course of trial, it often becomes the duty of counsel to make objections. You should not consider or be influenced by the fact that objections have been made. Any evidence to which an objection was made and sustained by the Court, and any evidence ordered stricken by the Court, must be entirely disregarded.

Anything you may have seen or heard outside of this courtroom is not evidence and must be entirely disregarded. You are to consider only the evidence in this case. However, in your consideration of the evidence, you are not limited to the bald statements of the witnesses. On the contrary, you are permitted to draw from the facts that you find have been proved, such reasonable inferences as seem justified in light of your experience. An inference is a deduction or conclusion that reason and common sense would lead you to draw from facts that are established by the evidence in the case.

JURY INSTRUCTION NO. ____

There are, generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of a case. One is direct evidence, such as the testimony of an eyewitness. The other is indirect or circumstantial evidence, which is proof of a chain of circumstances pointing to the existence or non-existence of certain facts. The law makes no distinction between the weight to be given to either direct or circumstantial evidence, but simply requires that the jury find the facts in accordance with the preponderance of all the evidence in the case, both direct and circumstantial.

JURY INSTRUCTION NO. ____

You are the exclusive judges of the credibility of the witnesses and the weight of the evidence. You may believe or disbelieve all or any part of any witness' testimony. In judging the weight of the testimony and the credibility of the witnesses you have a right to take into consideration their bias, their interest in the result of the suit, their relationship to any of the parties in the case, or any probable motive or lack thereof to testify fairly, if any is shown. You may consider the witnesses' deportment upon the witness stand; the reasonableness of their statements; their apparent frankness or candor, or the lack of it; their opportunity to know; their ability to understand; their capacity to remember; and the extent to which their testimony has been either supported or contradicted by other credible evidence in the case. You should consider these matters together with all of the other facts and circumstances that you may believe have a bearing on the truthfulness or accuracy of the witnesses' statements.

JURY INSTRUCTION NO. ____

Inconsistencies or discrepancies in the testimony of a witness or between the testimonies of different witnesses may or may not be cause to discredit the testimony of a witness. Two persons may see or hear the same event differently or reach different conclusions from the same facts. In weighing the effect of an inconsistency, consider the importance of the matter to which it pertains and whether the inconsistency may have resulted from innocent error, lapse of memory, or intentional falsehood. If there are apparent discrepancies in the evidence, you may be able to reconcile them, or you may have to decide which of two or more conflicting versions of the facts you will accept.

JURY INSTRUCTION NO. ____

If you believe any witness has willfully testified falsely as to any material matter, you may disregard the entire testimony of such witness, except as it may have been corroborated by other credible evidence.

JURY INSTRUCTION NO. ____

The rules of evidence ordinarily do not permit the opinion of a witness to be received as evidence. An exception to this rule exists in the case of expert witnesses. A person who, by education, study, and experience, has become an expert in any art, science, or profession, and who is called as a witness, may give his or her opinion as to any such matter in which he or she is versed and which is material to the case.

You are not bound, however, by such an opinion. You should judge expert opinion testimony just as you judge any other testimony. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if in your judgment the reasons given for it are unsound.

JURY INSTRUCTION NO. ____

If any reference by the Court or by counsel to matters of evidence does not coincide with your own recollection, it is your recollection that should control during your deliberations.

JURY INSTRUCTION NO. ____

In this trial, certain testimony has been read to you by way of deposition. A deposition is testimony taken under oath before trial and preserved in one form or another. It is entitled to the same consideration as if the witness had personally appeared.

JURY INSTRUCTION NO. ____

In this case, Plaintiffs have the burden of proving their claims against Defendants by a preponderance of the evidence. By a preponderance of the evidence, as that term is used in these instructions, is meant that evidence, which to your minds, is of the greater weight. The evidence preponderates to the side which, to your minds, seems to be the most convincing and satisfactory.

The preponderance of the evidence is not alone determined by the number of witnesses, nor the amount of testimony or documentary evidence, but rather the convincing character of the testimony and other evidence, and the inferences reasonably to be drawn therefrom, weighed by the impartial minds of the jury. This rule does not require proof to an absolute certainty, nor does it require proof beyond a reasonable doubt, which is the standard applied in criminal cases.

A party has succeeded in carrying the burden of proof by a preponderance of the evidence on an issue of fact if, after consideration of all the evidence in the case, the evidence favoring his or her side of the issue is more convincing to you than not.

JURY INSTRUCTION NO. ____

Your verdict must be based solely upon the evidence developed at this trial, or the lack of evidence. It would be improper for you to consider any personal feelings you may have about one of the parties' race, religion, national origin, sex, or age.

It would be equally improper for you to allow any feelings you might have about the nature of the claims against the Defendants to influence you in any way.

The parties in this case are entitled to a trial free from prejudice. Our judicial system cannot work unless you reach your verdict through a fair and impartial consideration of the evidence.

[IF APPLICABLE:]

Defendants are corporations. A corporation is entitled to the same treatment as a private individual. You must consider and decide this case as a case between persons of equal rights, equal worth, and equal standing. All persons, including corporations, stand equal before the law and are to be dealt with as equals in a court of justice.

JURY INSTRUCTION NO. ____

Plaintiffs bear the burden of proving by a preponderance of the evidence that they not only suffered damages but the amount of damages as well.

JURY INSTRUCTION NO. ____

Damages must be reasonable. You are not permitted to award speculative damages, which means compensation for a detriment which, although possible, is remote, or conjectural. The damages that you award must be fair and reasonable, neither inadequate nor excessive. You should not award compensatory damages for speculative injuries, but only for those injuries that the Plaintiffs have actually suffered or which they are reasonably likely to suffer in the near future.

In awarding compensatory damages, if you decide to award them, you must be guided by dispassionate common sense. Computing damages may be difficult, but you must not let that difficulty lead you to engage in arbitrary guesswork. On the other hand, the law does not require a Plaintiff to prove the amount of her losses with mathematical precision, but only with as much definiteness and accuracy as the circumstances permit.

JURY INSTRUCTION NO. ____

In this case you may not include in any award to Plaintiffs any sum for the purpose of punishing Defendants, or to make an example of them for the public good or to prevent other incidents. **[Use if punitive damages are not sought]**

JURY INSTRUCTION NO. ____

Plaintiffs have alleged that, as a result of Defendants' conduct, they have suffered pain, suffering and humiliation. Plaintiffs have the burden of proving any compensatory damages by a preponderance of the evidence. If Plaintiffs do not establish by a preponderance of the evidence that they have experienced pain, suffering, and humiliation that was proximately caused by Defendants' alleged wrongful conduct, then they cannot recover compensatory damages.

If you determine that Plaintiffs have proven by a preponderance of the evidence that they have experienced pain, suffering, and humiliation that was proximately caused by Defendants' alleged wrongful conduct, you may award them damages for those injuries.

JURY INSTRUCTION NO. ____

The law forbids you to decide any issue in this case by resorting to chance. If you decide that a party is entitled to recover, you may then determine the amount of damages to be awarded. It would be unlawful for you to agree in advance to take the independent estimate of each juror, then total the estimates, draw an average from the total, and to make the average the amount of your award. Each of you may express your own independent judgment as to what the amount should be. It is your duty to thoughtfully consider the amounts suggested, test them in the light of the law and the evidence and, after due consideration, determine, which, if any, of such individual estimates is proper.

JURY INSTRUCTION NO. ____

The fact that I have instructed you concerning damages is not to be taken as an indication that I either believe or do not believe that Plaintiffs are entitled to recover such damages. The instructions in reference to damages are given as a guide in case you find from a preponderance of the evidence that Plaintiffs are entitled to recover. However, if you determine that there should be no recovery, then you will entirely disregard the instructions given you upon the matter of damages.

JURY INSTRUCTION NO. ____

It is your duty, as jurors, to consult with one another and to deliberate with a view of reaching an agreement, if you can do so without violence to individual judgment. You must each decide the case for yourself, but only after an impartial consideration of the evidence in the case with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views, and change your opinion, if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence, solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Remember at all times that you are not partisans. You are judges—judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

JURY INSTRUCTION NO. ____

When you retire to deliberate, you should first select one of your number to serve as foreperson to preside over your deliberations and be your spokesperson here in Court.

JURY INSTRUCTION NO. ____

If it becomes necessary during your deliberations to communicate with the Court, you may send a note by a Court Security Officer, signed by your foreperson, or by one or more members of the jury. No member of the jury should attempt to communicate with the Court by any means other than a signed writing, and the Court will never communicate with any member of the jury on any subject touching the merits of the case, other than in writing or orally here in open Court.

You will note from the oath about to be taken by the Court Security Officer that he, as well as all other persons, is forbidden to communicate in any way or manner with any member of the jury on any subject touching the merits of the case.

Bear in mind also that you are never to reveal to any person—not even to the Court—how the jury stands numerically or otherwise, until you have reached a unanimous verdict.

This case is being submitted to you by a Special Verdict, which asks you to answer certain questions. When you have answered all the questions required to be answered, please have your foreperson sign the Special Verdict form and advise the Court Security Officer that such has been done. You will then be returned to the courtroom, where the Special Verdict will be read.

FILED
U.S. DISTRICT COURT

2011 JUN 22 A 10:37

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

BY: _____
DEPUTY CLERK

SEROCTIN RESEARCH &
TECHNOLOGIES,

Plaintiff,

vs.

UNIGEN PHARMACEUTICALS, et al.,

Defendants.

TRIAL ORDER

Civil No. 2:07 CV 582 TC

The final pretrial conference in this matter is scheduled for July 13, 2011,
at 3:00 p.m.

This case is set for a 8-day jury trial to begin on August 1, 2011, at 8:30 a.m. The attorneys are expected to appear in chambers at 8:00 a.m. on the first day of trial for a brief pre-trial meeting.

Counsel are instructed as follows:

1. Court-Imposed Deadlines.

The deadlines described in this order cannot be modified or waived in any way by a stipulation of the parties. Any party that believes an extension of time is necessary **must** make an appropriate motion to the court.

2. Pretrial Order.

At the pretrial conference, plaintiff is to file a joint proposed pretrial order which has been approved by all counsel. The pretrial order should conform generally to the requirements of DuCivR 16-1(3) and to the approved form of pretrial order which is reproduced as Appendix IV to the Rules of Practice for the U.S. District Court for the District of Utah.

3. Jury Instructions

The court has adopted its own standard general jury instructions, copies of which may be obtained from the court prior to trial. The procedure for submitting proposed jury instructions is as follows:

(a) The parties must serve their proposed jury instructions on each other **at least ten business days before trial**. The parties should then confer in order to agree on a single set of instructions to the extent possible.

(b) If the parties cannot agree upon one complete set of final instructions, they may submit separately those instructions that are not agreed upon. However, it is not enough for the parties to merely agree upon the general instructions and then each submit their own set of substantive instructions. The court expects the parties to meet, confer, and agree upon the wording of the substantive instructions for the case.

(c) The joint proposed instructions (along with the proposed instructions upon which the parties have been unable to agree) must be filed with the court **at least five business days before trial**. All proposed jury instructions must be in the following format:

(I) An original and one copy of each instruction, labeled and numbered at the top center of the page to identify the party submitting the instruction (e.g., "Joint Instruction No. 1" or "Plaintiff's Instruction No. 1"), and including citation to the authority that forms the basis for it.

(ii) A copy of the proposed instructions shall be emailed to chambers as a Word or WordPerfect document. Chambers email is utdecf_campbell@utd.uscourts.gov. Include the case number in the email subject line. Any party unable to comply with this requirement must contact the court to make alternative arrangements.

(d) Each party should file its objections, if any, to jury instructions proposed by any other party **no later than two business days before trial**. Any such objections must recite the proposed instruction in its entirety and specifically highlight the objectionable language contained therein. The objection should contain both a concise argument why the proposed language is improper and citation to relevant legal authority. Where applicable, the objecting party **must** submit, in conformity with paragraph 3(c)(i) - (ii) above, an alternative instruction covering the pertinent subject matter or principle of law. Any party

may, if it chooses, submit a brief written reply in support of its proposed instructions **on the day of trial**.

(e) All instructions should be short, concise, understandable, and neutral statements of law. Argumentative instructions are improper and will not be given.

(f) Modified versions of statutory or other form jury instructions (e.g., Devitt & Blackmar) are acceptable. A modified jury instruction must, however, identify the exact nature of the modification made to the form instruction and cite the court to authority, if any, supporting such a modification.

4. Special Verdict Form

The procedure outlined for proposed jury instructions will also apply to special verdict forms.

5. Requests for Voir Dire Examination of the Venire.

The parties may request that, in addition to its usual questions, the court ask additional specific questions to the jury panel. Any such request should be submitted in writing to the court and served upon opposing counsel **at least ten business days before trial**.

6. Findings of Fact and Conclusions of Law

At the conclusion of all non-jury trials, counsel for each party will be instructed to file with the court proposed findings of fact and conclusions of law. The date of submission will vary, depending upon the need for and availability of a transcript of trial and the schedule of court and counsel. Findings of fact should be supported, if possible, by reference to the record. For that reason, the parties are urged to make arrangements with Mr. Raymond Fenlon, the Court Reporter, for the preparation of a trial transcript. Conclusions of law must be accompanied by citations to supporting legal authority.

As with proposed jury instructions and special verdict forms, the proposed findings of fact and conclusions of law should be submitted to chambers both in hard copy and electronic format using WordPerfect.

7. Motions in Limine

All motions in limine are to be filed with the court **at least five business days before trial**, unless otherwise ordered by the court.

8. Exhibit Lists/Marking Exhibits

All parties are required to prepare an exhibit list for the court's use at trial. The list contained in the pretrial order will not be sufficient; a separate list must be prepared. Plaintiffs should list their exhibits by number; defendants should list their exhibits by letter. Standard forms for exhibit lists are available at the clerk's office, and questions regarding the preparation of these lists may be directed to the courtroom deputy, Mary Jane McNamee, at 524-6116. All parties are required to pre-mark their exhibits to avoid taking up court time during trial for such purposes.

9. In Case of Settlement

Pursuant to DUCivR 41-1, the court will tax all jury costs incurred as a result of the parties' failure to give the court adequate notice of settlement. Leaving a message on an answering machine or sending a notice by fax is not considered sufficient notice to the court. If the case is settled, counsel must advise the jury administrator or a member of the court's staff by means of a personal visit or by person-to-person telephonic communication.

10. Courtroom Conduct

In addition to the rules outlined in DUCivR 43-1, the court has established the following ground rules for the conduct of counsel at trial:

(a) Please be on time for each court session. In most cases, trial will be conducted from 8:45 a.m. until 1:45 p.m., with two short (fifteen minute) breaks. Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance to have them continued or have an associate handle them for you.

(b) Stand as court is opened, recessed or adjourned.

(c) Stand when the jury enters or retires from the courtroom.

(d) Stand when addressing, or being addressed by, the court.

(e) In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the court. For example, the following objections would be proper: "Objection . . . hearsay." or "Objection . . . foundation." The following objection would be improper unless the court had requested further argument: "Objection, there has been no foundation laid for the expert's opinion

and this testimony is inherently unreliable.”

(f) Sidebar conferences will not be allowed except in **extraordinary** circumstances. If a sidebar conference is held, the court will, if possible, inform the jury of the substance of the sidebar argument. Most matters requiring argument should be raised during recess.

(g) Counsel need not ask permission to approach a witness in order to **briefly** hand the witness a document or exhibit.

(h) Do not greet or introduce yourself to witnesses. For example, “Good Morning, Mr. Witness. I represent the plaintiff in this case” is improper. Begin your examination without preliminaries.

(i) Address all remarks to the court, not to opposing counsel, and do not make disparaging or acrimonious remarks toward opposing counsel or witnesses. Counsel shall instruct all persons at counsel table that gestures, facial expressions, audible comments, or any other manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.

(j) Refer to all persons, including witnesses, other counsel, and parties, by their surnames and NOT by their first or given names.

(k) Only one attorney for each party shall examine, or cross-examine, each witness. The attorney stating objections during direct examination shall be the attorney recognized for cross examination.

(l) Offers of, or requests for, a stipulation shall be made out of the hearing of the jury.

(m) In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue. The following examples would be improper: “I believe the witness was telling the truth” or “I found the testimony credible.”

(n) When not taking testimony, counsel will remain seated at counsel table throughout the trial unless it is necessary to move to see a witness. Absent an emergency, do not leave the courtroom while court is in session. If you must leave the courtroom, you do not need to ask the court's permission. Do not confer with or visit with anyone in the spectator section while court is in session.

DATED this 21st day of June, 2011.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

DIANNA K. LARSON, et al.,

Plaintiffs,

v.

BONDEX INTERNATIONAL, et al.,

Defendants.

ORDER FOR *PRO HAC VICE* ADMISSION

Case No. 2:08-cv-00333

Judge Ted Stewart

It appearing to the Court that Petitioner meets the *pro hac vice* admission requirements of DUCiv R 83-1.1(d), the Motion for the Admission *Pro Hac Vice* of Demetrios Zacharopoulos in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: This 22nd day of June, 2011.



Honorable Ted Stewart
U.S. District Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNISHIPPERS GLOBAL LOGISTICS,
LLC, a Delaware Limited Liability
Company,

Plaintiff,

vs.

DHL EXPRESS (USA), INC., an Ohio
Corporation,

Defendant.

:
: **ORDER GRANTING**
: **UNISHIPPERS' *EX PARTE***
: **APPLICATION TO FILE**
: **OVERLENGTH OPPOSITION TO**
: **DHL'S MOTION IN LIMINE NO. 1**
: **RE: DAMAGES EVIDENCE**
:
: Civil No. 2:08-CV-894
:
: Judge Dale A. Kimball
:
:

Based upon the *Ex Parte* Application to File Overlength Opposition to DHL's Motion in *Limine* No. 1 Re: Damages Evidence filed by Plaintiff Unishippers Global Logistics, LLC ("Unishippers"), and good cause appearing, IT IS HEREBY ORDERED that Unishippers' *Ex Parte* Application to File Overlength Memorandum is GRANTED.

The Court will consider Unishippers' Opposition to DHL's Motion in *Limine* No. 1 Re: Damages Evidence, containing approximately 17 pages of legal argument, exclusive of the Summary of Argument and Fact sections.

DATED this 22nd day of June, 2011.

BY THE COURT



The Honorable Dale A. Kimball
United States District Court Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

JUN 22 2011

D. MARK JONES, CLERK

DEPUTY CLERK

UNITED STATES OF AMERICA, : Case #: 2:09CR00758 DB
Plaintiff, :
vs. : ORDER OF FORFEITURE
SIONE VATUVEI and :
NAISA ANGILAU, :
Defendant. : JUDGE Dee Benson
:

IT IS HEREBY ORDERED that:

1. As a result of a plea of guilty to Count 3 of the Indictment for which the government sought forfeiture pursuant to 18 U.S.C. § 924(d)(1), the defendant Sione Vatuvei, shall forfeit to the United States all property, real or personal, that is derived from, used, or intended to be used in violation of 18 U.S.C. § 922(g), including but not limited to:

- Lorcin .380 handgun, Serial Number: 470803
- Associated Ammunition

2. The Court has determined that based on being found guilty of Hobbs Act Robbery, Discharged Firearm During a Crime of Violence, Possession of a Firearm by a Convicted Felon and Aiding and Abetting, the above-named properties is subject to forfeiture, that the defendant had an interest in the properties, and that the government has established the requisite nexus between such properties and such offense;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

3. Pursuant to 18 U.S.C. § 924(d)(1), and Rule 32.2(b)(1), Federal Rules of Criminal Procedure, the above identified property is hereby forfeited to the United States.

4. Upon the entry of this Order, in accordance with Fed. R. Crim. P. 32.2(b)(3), the Attorney General (or a designee) is authorized to seize the properties and conduct any discovery proper in identifying, locating, or disposing of the property subject to forfeiture.

5. Upon entry of this Order the Attorney General or its designee is authorized to commence any applicable proceeding to comply with statutes governing third party interests, including giving notice of this Order.

6. The United States shall publish notice of this Order on its intent to dispose of the property on the Government's internet website, www.forfeiture.gov. The United States may also, to the extent practicable, provide written notice to any person known to have an alleged interest in the subject property.

7. Any person, other than the above named defendant, asserting a legal interest in the subject property may, within thirty days of the final publication of notice or receipt of notice, whichever is earlier, petition the Court for a hearing without a jury to adjudicate the validity of his alleged interest in the subject property, and amendment of the order of forfeiture pursuant to 21 U.S.C. § 853.

8. Pursuant to Fed. R. Crim. P. 32.2(b)(4), this Order of Forfeiture shall become final as to the defendant at the time of sentencing and shall be made part of the sentence and included in the judgment. If no third party files a timely claim, this Order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2).

9. Any petition filed by a third party asserting an interest in the subject property

shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's acquisition of the right, title, or interest in the subject property, any additional facts supporting the petitioners claim and relief sought.

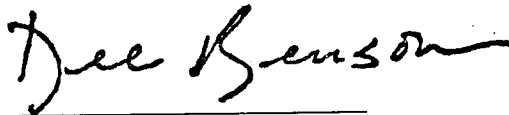
10. After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Criminal Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

11. The United States shall have clear title to the subject property following the Court's disposition of all third party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853 which is incorporated by 18 U.S.C. § 982(b) for the filing of third party petitions.

12. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

Dated this 21 day of June, 2011.

BY THE COURT:



DEE BENSON, Judge
United States District Court

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

JUN 22 2011

BY D. MARK JONES, CLERK

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, : Case #: 2:09CR00868 DB
Plaintiff, :
vs. : ORDER OF FORFEITURE
ERIC C. EKSTROM, :
Defendant. : JUDGE Dee Benson
:

IT IS HEREBY ORDERED that:

1. As a result of a plea of guilty to Count 1 of the Indictment for which the government sought forfeiture pursuant to 18 U.S.C. § 924(d)(1), the defendant Erik C. Ekstrom, shall forfeit to the United States all property, real or personal, that is derived from, used, or intended to be used in violation of 18 U.S.C. § 922, including but not limited to:

- .40 caliber Glock handgun, Serial Number: EWF031
- .40 caliber ammunition

2. The Court has determined that based on being found guilty of Possession of a Firearm Following a Domestic Violence Conviction, the above-named properties is subject to forfeiture, that the defendant had an interest in the properties, and that the government has established the requisite nexus between such properties and such offense;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

3. Pursuant to 18 U.S.C. § 924(d)(1), and Rule 32.2(b)(1), Federal Rules of Criminal Procedure, the above identified property is hereby forfeited to the United States.
4. Upon the entry of this Order, in accordance with Fed. R. Crim. P. 32.2(b)(3), the Attorney General (or a designee) is authorized to seize the properties and conduct any discovery proper in identifying, locating, or disposing of the property subject to forfeiture.
5. Upon entry of this Order the Attorney General or its designee is authorized to commence any applicable proceeding to comply with statutes governing third party interests, including giving notice of this Order.
6. The United States shall publish notice of this Order on its intent to dispose of the property on the Government's internet website, www.forfeiture.gov. The United States may also, to the extent practicable, provide written notice to any person known to have an alleged interest in the subject property.
7. Any person, other than the above named defendant, asserting a legal interest in the subject property may, within thirty days of the final publication of notice or receipt of notice, whichever is earlier, petition the Court for a hearing without a jury to adjudicate the validity of his alleged interest in the subject property, and amendment of the order of forfeiture pursuant to 21 U.S.C. § 853.
8. Pursuant to Fed. R. Crim. P. 32.2(b)(4), this Order of Forfeiture shall become final as to the defendant at the time of sentencing and shall be made part of the sentence and included in the judgment. If no third party files a timely claim, this Order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2).
9. Any petition filed by a third party asserting an interest in the subject property

shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's acquisition of the right, title, or interest in the subject property, any additional facts supporting the petitioners claim and relief sought.

10. After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Criminal Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

11. The United States shall have clear title to the subject property following the Court's disposition of all third party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853 which is incorporated by 18 U.S.C. § 982(b) for the filing of third party petitions.

12. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

Dated this 12 day of June, 2011.

BY THE COURT:

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive, flowing style.

DEE BENSON, Judge
United States District Court

JUN 22 2011

IN THE UNITED STATES DISTRICT COURT BY **D. MARK JONES, CLERK**
DISTRICT OF UTAH, CENTRAL DIVISION **DEPUTY CLERK**

UNITED STATES OF AMERICA, : Case #: 2:09CR00894 DB
Plaintiff, :
vs. : ORDER OF FORFEITURE
ABRAHAM LORIA JIMENEZ, :
Defendant. :
JUDGE Dee Benson
:

IT IS HEREBY ORDERED that:

1. As a result of a plea of guilty to Count 1 of the Indictment for which the government sought forfeiture pursuant to 18 U.S.C. § 924(d)(1), the defendant Abraham Loria Jimenez, shall forfeit to the United States all property, real or personal, that is derived from, used, or intended to be used in violation of 18 U.S.C. § 922, including but not limited to:

- .22 Ruger Standard caliber handgun: 10-69280

2. The Court has determined that based on being found guilty of Possession of a Firearm by an Illegal Alien, the above-named properties is subject to forfeiture, that the defendant had an interest in the properties, and that the government has established the requisite nexus between such properties and such offense;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

3. Pursuant to 18 U.S.C. § 924(d)(1), and Rule 32.2(b)(1), Federal Rules of Criminal Procedure, the above identified property is hereby forfeited to the United States.

4. Upon the entry of this Order, in accordance with Fed. R. Crim. P. 32.2(b)(3), the Attorney General (or a designee) is authorized to seize the properties and conduct any discovery proper in identifying, locating, or disposing of the property subject to forfeiture.

5. Upon entry of this Order the Attorney General or its designee is authorized to commence any applicable proceeding to comply with statutes governing third party interests, including giving notice of this Order.

6. The United States shall publish notice of this Order on its intent to dispose of the property on the Government's internet website, www.forfeiture.gov. The United States may also, to the extent practicable, provide written notice to any person known to have an alleged interest in the subject property.

7. Any person, other than the above named defendant, asserting a legal interest in the subject property may, within thirty days of the final publication of notice or receipt of notice, whichever is earlier, petition the Court for a hearing without a jury to adjudicate the validity of his alleged interest in the subject property, and amendment of the order of forfeiture pursuant to 21 U.S.C. § 853.

8. Pursuant to Fed. R. Crim. P. 32.2(b)(4), this Order of Forfeiture shall become final as to the defendant at the time of sentencing and shall be made part of the sentence and included in the judgment. If no third party files a timely claim, this Order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2).

9. Any petition filed by a third party asserting an interest in the subject property

shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's acquisition of the right, title, or interest in the subject property, any additional facts supporting the petitioners claim and relief sought.

10. After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Criminal Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

11. The United States shall have clear title to the subject property following the Court's disposition of all third party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853 which is incorporated by 18 U.S.C. § 982(b) for the filing of third party petitions.

12. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

Dated this ²¹~~2~~st day of June, 2011.

21st

BY THE COURT:

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive, flowing style.

DEE BENSON, Judge
United States District Court

~~2011 JUN 22~~ A 10:37

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$34,020.00 in U.S. CURRENCY, and

\$2,300.00 in Pesos, U.S. Value:
approximately \$217.65,

Defendants.

Case # 2:09CV00487-TC

JUDGMENT OF FORFEITURE

JUDGE: TENA CAMPBELL

Based on the findings of the Court, the Settlement Agreement entered into by all parties on June 16, 2011, all other disputes to this action fully satisfied, and good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that:

1. The Settlement Agreement entered into between the United States of America and Claimant Gabriel Arrellano is approved.


2. From the total amount of funds making up the defendant properties, \$20,542.59 in United States Currency is hereby forfeited to the United States and all right, title and interest in the \$20,542.59 forfeited to the United States of America shall be disposed of according to law, and any interest of any person or entity in said asset is forever barred.

3. From the total amount of funds making up the defendant properties, \$13,695.06 in United States Currency shall be returned to Claimant Gabriel Arrellano, and his attorney Joseph Jardine.

4. All other terms and conditions as outlined in the Settlement Agreement shall be upheld and enforced.

SO ORDERED, DATED this 21 day of June, 2011.

BY THE COURT:


TENA CAMPBELL, Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

GILBERT SEGURA AND MARIE
SEGURA,

Plaintiff,

v.

UNITED STATES OF AMERICA,
Defendant.

Case No. 2:09-CV-517-SA

ORDER OF DISMISSAL

Based upon the Stipulation of Dismissal (Doc. 20) and for
good cause appearing, it is

HEREBY ORDERED, ADJUDGED, AND DECREED that the above-
referenced matter is dismissed, with prejudice, with each party
to bear its own costs, including attorney fees, incurred herein.

DATED this 21st day of June, 2011.

BY THE COURT:



SAMUEL ALBA
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

ANTONIO LEOS MEZA,)	DISMISSAL ORDER
)	
Plaintiff,)	Case No. 2:09-CV-1090 CW
)	
v.)	District Judge Clark Waddoups
)	
STEVEN TURLEY et al.,)	
)	
Defendants.)	

On April 28, 2011, the Court ordered Plaintiff to within thirty days show cause why his prisoner civil rights complaint should not be dismissed for failure to prosecute (i.e., to respond to Defendants' summary-judgment motion). The Court has not directly heard from Plaintiff since June 1, 2010, when he filed a document.

IT IS THEREFORE ORDERED that Plaintiff's complaint is dismissed without prejudice for failure to prosecute.¹

DATED this 20th day of June, 2011.

BY THE COURT:



JUDGE CLARK WADDOUPS
United States District Court

¹See [Fed. R. Civ. P. 41\(b\)](#); [Link v. Wabash R.R. Co.](#), 370 U.S. 626, 630-31, 82 S. Ct. 1386, 1388-89 (1962); [Olsen v. Mapes](#), 333 F.3d 1199, 1204 n.3 (10th Cir. 2003).

UNITED STATES DISTRICT COURT
U.S. DISTRICT COURT
District of Utah

UNITED STATES OF AMERICA

2011 JUN 20 P 2:23

JUDGMENT IN A CRIMINAL CASE

v.

DISTRICT OF UTAH

Calvin Eugene Gamble aka Malcom Javon Crawford

BY:

DEPUTY CLERK

Case Number: DUTX2:10-CR-00582-001 DAK

USM Number: 17153-081

L. Clark Donaldson

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 9 and 10 of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1341	Mail Fraud	7/1/2010	9 & 10

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) 1 through 8 ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

6/16/2011

Date of Imposition of Judgment

Signature of Judge

Dale A. Kimball

Name of Judge

U.S. District Judge

Title of Judge

Date

June 20, 2011

DEFENDANT: Calvin Eugene Gamble aka Malcom Javon Crawford
CASE NUMBER: DUTX2:10-CR-00582-001 DAK

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:
21 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the defendant be placed in a medical facility where his HIV/AIDS, anxiety and depression, as well as safety issues, can be addressed.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 2 p.m. on 8/15/2011

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Calvin Eugene Gamble aka Malcom Javon Crawford
CASE NUMBER: DUTX2:10-CR-00582-001 DAK

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :
36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Calvin Eugene Gamble aka Malcom Javon Crawford
CASE NUMBER: DUTX2:10-CR-00582-001 DAK

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall submit to drug/alcohol testing as directed by the United States Probation Office and pay a one-time \$115 fee to partially defray the costs of collection and testing.
2. The defendant shall participate in a substance-abuse evaluation and/or treatment under a co-payment plan as directed by the U. S. Probation Office. During the course of treatment, the defendant shall not consume alcohol nor frequent any establishment where alcohol is the primary item of order.
3. The defendant shall submit his person, residence, office, or vehicle to a search, conducted by the U. S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
4. The defendant shall participate in a mental health treatment program under a copayment plan as directed by the U. S. Probation Office, take any mental health medications as prescribed, and not possess or consume alcohol, nor frequent businesses where alcohol is the primary item of order, during the course of treatment or medication.

DEFENDANT: Calvin Eugene Gamble aka Malcom Javon Crawford

CASE NUMBER: DUTX2:10-CR-00582-001 DAK

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 200.00	\$ 0.00	\$ 181,657.93

☐ The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Social Security Administration Attn: Court Refund P.O. Box 2861 Philadelphia, PA 19122	\$62,666.56	\$62,666.56	
The Department of Workforce Services Attn: Debbie Torres Tax ID 876000545 Department of Workforce Services PAO 140 East 300 South Salt Lake City, UT 84148	\$97,107.27	\$97,107.27	

TOTALS	\$ <u>181,657.93</u>	\$ <u>181,657.93</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Calvin Eugene Gamble aka Malcom Javon Crawford
CASE NUMBER: DUTX2:10-CR-00582-001 DAK

ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
West Valley City Housing Authority 4522 West 3500 South West Valley City, UT 84120	\$21,884.10	\$21,884.10	

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Calvin Eugene Gamble aka Malcom Javon Crawford
CASE NUMBER: DUTX2:10-CR-00582-001 DAK

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 200.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
- The \$200 Special Assessment Fee is due immediately. The restitution shall be paid at a minimum rate of \$25 per month while incarcerated and a minimum rate of \$100 per month upon release from confinement, or as otherwise determined by the U. S. Probation Office.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

FILED
U.S. DISTRICT COURT
UNITED STATES DISTRICT COURT

Central

District of

Utah

UNITED STATES OF AMERICA

V.

2011 JUN 22 P 2: 53

JUDGMENT IN A CRIMINAL CASE

DISTRICT OF UTAH

Salvador Delgado

BY: _____
DEPUTY CLERK

Case Number:

DUTX 2:10CR00892-001 TC

USM Number:

17508-081

David Shapiro

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 USC § 841(a)(1)	Possession of a Controlled Substance with Intent to Distribute		1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) Two of the Indictment ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

06/07/2011

Date of Imposition of Judgment

Signature of Judge

Tena Campbell

Name and Title of Judge

United States District Court Judge

Date

6-17-2011

DEFENDANT: Salvador Delgado
CASE NUMBER: 2:10CR00892-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

60 Months

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant serve his sentence at a facility in the Fresno, California area.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Salvador Delgado
CASE NUMBER: 2:10CR00892-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

60 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Salvador Delgado
CASE NUMBER: 2:10CR00892-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not illegally reenter the United States.

DEFENDANT: Salvador Delgado
CASE NUMBER: 2:10CR00892-001 TC

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ _____ 0	\$ _____ 0
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Salvador Delgado
CASE NUMBER: 2:10CR00892-001 TC

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

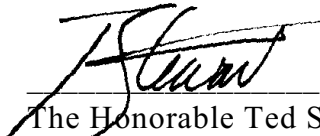
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, : Case No. 2:10-cr-00899-TS
Plaintiff, :
v. : ORDER CONTINUING SENTENCING
PAUL R. BECKWITH, :
Defendant. : Judge Ted Stewart

The Court, having considered the government's Motion to Continue Sentencing in the above-captioned action, there being no objections, and good cause appearing, the government's motion is GRANTED.

IT IS ORDERED that the sentencing in this case is continued from August 10, 2011 to the 17th day of October, 2011, beginning at 2:00 p.m.

BY THE COURT:



The Honorable Ted Stewart
United States Chief District Judge

UNITED STATES DISTRICT COURT
U.S. DISTRICT COURT

Central

District of

Utah

UNITED STATES OF AMERICA 2011 JUN 22 P 1:50 JUDGMENT IN A CRIMINAL CASE

V.

DISTRICT OF UTAH

Jojo L. Roybal

BY:

Case Number:

DUTX 2:10CR01007-001 TC

DEPUTY CLERK

USM Number:

17602-081

Darin Goff

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 111(a)(1)	Assault on a Federal Officer with a Dangerous Weapon		1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) Two of the Indictment ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

06/07/2011

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell

United States District Court Judge

Name and Title of Judge

6-17-2011

Date

DEFENDANT: Jojo L. Roybal
CASE NUMBER: 2:10CR01007-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

33 Months, with credit for time served

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court strongly recommends the defendant participate in RDAP while incarcerated and serve his sentence at an Arizona facility.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Jojo L. Roybal
CASE NUMBER: 2:10CR01007-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Jojo L. Roybal
CASE NUMBER: 2:10CR01007-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant will submit to drug/alcohol testing under a copayment plan, as directed by the USPO.
2. The defendant shall participate in a substance-abuse evaluation and/or treatment under a copayment plan as directed by the USPO.
3. The defendant shall participate in a mental health treatment program under a copayment plan, as directed by the probation office, take any mental health medications as prescribed, and not possess or consume alcohol, nor frequent businesses where alcohol is the chief item of order, during the course of treatment or medication.
4. The defendant shall submit his person, residence, office or vehicle to a search, conducted by a USPO at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

DEFENDANT: Jojo L. Roybal
CASE NUMBER: 2:10CR01007-001 TC

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$ 448.60

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
United States Marshals Service 350 South Main Street Salt Lake City, UT 84101	448.60	448.60	

TOTALS	\$ <u>448.60</u>	\$ <u>448.60</u>
--------	------------------	------------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Jojo L. Roybal
CASE NUMBER: 2:10CR01007-001 TC

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Restitution is due immediately and shall be payable at a minimum rate of \$15 per month, while incarcerated and a minimum of \$50.00 per month upon release from incarceration, or as otherwise determined by the USPO. The Court waives the accrual of interest.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT
U.S. DISTRICT COURT

Central

District of

Utah

UNITED STATES OF AMERICA

2011 JUN 22 P 1:50

JUDGMENT IN A CRIMINAL CASE

V.

DISTRICT OF UTAH

Carlos Andrade-Vargas

BY:

DEPUTY CLERK

Case Number:

DUTX 2:10CR001132-001 TC

USM Number:

17693-081

Viviana Ramirez

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 USC § 841(a)(1)	Possession with Intent to Distribute 100 Grams or More of Heroin		1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) 2 of the Indictment ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

6/1/2011

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell

Name and Title of Judge

United States District Court Judge

6-17-2011

Date

DEFENDANT: Carlos Andrade-Vargas
CASE NUMBER: 2:10CR001132-001 TC

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

60 Months

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant serve his sentence at the Victorville, California facility, to allow family visitations.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Carlos Andrade-Vargas
CASE NUMBER: 2:10CR001132-001 TC

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

60 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Carlos Andrade-Vargas
CASE NUMBER: 2:10CR001132-001 TC

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not illegally reenter the United States.

DEFENDANT: Carlos Andrade-Vargas
CASE NUMBER: 2:10CR001132-001 TC

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ _____ 0	\$ _____ 0
--------	------------	------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Carlos Andrade-Vargas
CASE NUMBER: 2:10CR001132-001 TC

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A** ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☒ The defendant shall forfeit the defendant's interest in the following property to the United States:
\$14,800 United States currency, a High-Point 9 mm semi-automatic handgun (serial no. P1359783) and miscellaneous ammunition

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

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Felicia B. Canfield, #9686
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A Professional Corporation
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btilt@fabianlaw.com
fcanfield@fabianlaw.com
*Attorneys for Defendant Federal Deposit Insurance Corporation
as Receiver for Barnes Banking Company*

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

MUDDY BOYS INC.,

Plaintiff,

v.

J. BALLARD HOMES, INC.; BLUE DIAMOND
SARATOGA CHASE, LLC; FEDERAL DEPOSIT
INSURANCE CORPORATION AS RECEIVER FOR
BARNES BANKING COMPANY; SUNROC
CORPORATION; MICHAEL LEAVITT, Trustee;
KRISTOFER SAGERS; JULIE SAGERS;
REPUBLIC MORTGAGE HOME LOANS LLC;
KILEY I. BURESH; MICHAEL S. BURESH;
METLIFE HOME LOANS, Div. METLIFE BANK.
N.A.; LONI ACKERMAN; SECURITY NATIONAL
MORTGAGE COMPANY; MORGAN TITLE &
ESCROW; BRITTNEY M. ELLISON; TODD D.
ELLISON; STEARNS LENDING, INC.; ATLAS
TITLE INSURANCE AGENCY, INC; ROBERT J.
STAPLEY; JERILYN GINGELL; BANK OF
AMERICA, N.A.; STEWART T. MATHESON,
Trustee; CODY OAKESON; ANGELA OAKESON;
W.J. BRADLEY MORTGAGE CAPITAL CORP.;
COREY M. LOVE; REPUBLIC MORTGAGE
HOME LOANS, LLC d/b/a NEW LINE
MORTGAGE; UNITED TITLE SERVICES;

**ORDER GRANTING
EXTENSION OF TIME IN
WHICH DEFENDANT
FEDERAL DEPOSIT
INSURANCE CORPORATION
AS RECEIVER FOR BARNES
BANKING COMPANY MAY
FILE A RESPONSE TO
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

Judge Ted Stewart

Case No. 2:10-cv-441

JOSEPH ROBERT BERRY; CHRISTOPHER LAMB; DIRECT MORTGAGE, CORP; TITLE WEST TITLE COMPANY; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; SC HOMES II, LLC; and JOHN DOES 1-50,	
---	--

Defendants.

Based upon the “Third Stipulation and Request for Order Granting Extension of Time in Which Defendant Federal Deposit Insurance Corporation as Receiver for Barnes Banking Company May File a Response to Plaintiff’s Motion for Summary Judgment,” and for good cause appearing, IT IS HEREBY ORDERED THAT the deadline by which Defendant Federal Deposit Insurance Corporation as Receiver for Barnes Banking Company must file a response to Plaintiff’s Motion for Summary Judgment shall be extended from June 21, 2011, to and including July 11, 2011.

DATED this 22nd day of June, 2011.

BY THE COURT:



APPROVED AS TO FORM:

/s/ Tyler S. Foutz

Tyler S. Foutz

OLSEN SKOUBYE & NIELSON, LLC

Attorneys for Plaintiff

(Signed with permission of Plaintiff’s counsel Tyler S. Foutz by Filing Attorney Bradley L. Tilt)

/s/ Bradley L. Tilt

Bradley L. Tilt

FABIAN & CLENDENIN, P.C.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing proposed **ORDER GRANTING EXTENSION OF TIME IN WHICH DEFENDANT FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR BARNES BANKING COMPANY MAY FILE A RESPONSE TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

was served electronically via the Court's CM/ECF system this 21st day of June, 2011, to:

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Tyler S. Foutz
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Attorneys for Fidelity National Title and for Defendants Blue Diamond Saratoga Chase, LLC, SC Homes II LLC, Christopher Lamb, Joseph Robert Berry, and Mortgage Electronic Registration Systems, Founders Title, Prime Lending, Julie Smith, Tanya Reed, Academy Mortgage Corp., Axiom Financial, Cottonwood Title, Direct Mortgage, Security National Mortgage, Title West Title Company, Christopher M. Gordon, Coby Dubois, Douglas Carter, Jennifer Carter, LynnAnn T. Hobbs, Republic Mortgage Home Loans, and Katie Alusa

Stuart T. Matheson
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*Attorneys for Defendants Bank of America, Mortgage Electronic
Registration Systems, and Stewart T. Matheson*

and by first class mail, postage prepaid to:

Glen W. Roberts
Title West Title Company
727 North 1550 East, #150
Orem, UT 84097

Attorney for Defendant Title West Title Company

J. Ballard Homes
c/o Russell Larson
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American Fork, Utah 84003

/s/Bradley L. Tilt

Abraham Bates (12440)
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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
JUN 22 2011
BY D. MARK JONES, CLERK
DEPUTY CLERK

Attorney for Plaintiff SHAWNA FERN SMITH

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<p>SHAWNA FERN SMITH,</p> <p>Plaintiff,</p> <p>vs.</p> <p>CAPITAL RESOURCE GROUP; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; FLAGSTAR BANK, FSB; ETITLE INSURANCE AGENCY; FEDERAL HOME LOAN MORTGAGE CORPORATION; and DOES 1-5,</p> <p>Defendants.</p>	<p>(REDACTED) ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL Case no. 2:10-cv-00815</p> <p>The Honorable Dee Benson</p>
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This matter is before the Court on Plaintiff's Motion to Withdraw as Counsel. Attorneys Abraham Bates, J. Mark Edwards, Jarom J. Bergeson and Michael C. Smith of WASATCH ADVOCATES, LLC, seek to withdraw stating that their client has breached her retainer agreement and has failed to cure the breach. Counsel has notified Plaintiff of their intent to withdraw pursuant to DUCivRule 83-1.4. Accordingly, counsel's Motion to Withdraw is GRANTED.

Pursuant to DUCivRule 83-1.4(c)(3), "[w]ithin twenty-one (21) days after entry of the order, or within the time otherwise required by the court, (i) any individual whose attorney has withdrawn shall file a notice of *pro se* appearance or new counsel shall file an appearance on that party's behalf . . . (5) An unrepresented party who fails to appear within the twenty-one (21) days after entry of the order, or within the time otherwise required by the court, may be subject to sanction pursuant to Federal Rule of Civil Procedure 16(f)(1), including but not limited to dismissal or default judgment." In accordance with this rule, Plaintiff is HEREBY ORDERED to provide notice to the Court within twenty-one (21) days from the date of this Order of appointment of another attorney or her decision to appear *pro se*.

Finally, it is ORDERED that Plaintiff's former counsel provide a copy of this Order to Plaintiff in a timely manner.

SO ORDERED this 21 day of June, 2011.

BY THE COURT:



The Honorable Dee Benson

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Elisabeth M. McOmber (10615)
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Daniel A. Boehnen (admitted *pro hac vice*)
Grantland G. Drutchas (admitted *pro hac vice*)
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Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<p>EDIZONE, LLC,</p> <p>Plaintiff,</p> <p>vs.</p> <p>SCHERING-PLOUGH HEALTHCARE PRODUCTS, INC., BROWN SHOE COMPANY, INC., WAL-MART STORES, INC., TARGET CORPORATION, WALGREEN CO., and DOES 1 – 50,</p> <p>Defendants</p>	<p>STIPULATED PROTECTIVE ORDER</p> <p>Case No.: 2:10-cv-00855-TS</p> <p>U.S. District Judge Ted Stewart</p>
---	--

The Parties to this action, having determined that certain documents and information produced or to be produced during discovery in the above-captioned action should be kept confidential, and desiring to obtain a protective order pursuant to Federal Rule of Civil Procedure 26(c) to protect the manner of disclosure and use of such confidential or proprietary information, and having stipulated and agreed that the following provisions shall govern the handling and use of such confidential information and documents in these proceedings, and the Court finding good cause shown, IT IS HEREBY ORDERED that the following provisions shall govern documents and information produced in discovery in this litigation:

1. PURPOSES AND LIMITATIONS

1.1 The parties to the above-captioned action are engaged in discovery proceedings, which include, among other things, taking depositions, responding to interrogatories, and producing documents for inspection and copying. These discovery proceedings necessarily involve the production by the parties of certain information that the parties believe to be confidential, sensitive, and non-public commercial, financial or business information. Accordingly, in order to promote the fair and expeditious resolution of this action, the parties hereby stipulate to and petition the court to enter the following Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords extends only to the limited information or items that are entitled under the applicable legal principles to treatment as confidential.

2. **DEFINITIONS**

2.1 **Party:** any party to this action, including all of its officers, directors, employees, consultants, retained experts, Counsel of Record (and their staff) and Other Counsel (and their staff).

2.2 **Disclosure or Discovery Material:** all items or information, regardless of the medium or manner generated, stored, or maintained (including, among other things, documents, testimony, transcripts, interrogatory answers, responses to requests for admission, pleadings, correspondence, documents and tangible things) that are produced or generated in disclosures or responses to discovery in this matter.

2.3 **“CONFIDENTIAL” and “CONFIDENTIAL COUNSEL OF RECORD ONLY” Information or Items:**

a. “CONFIDENTIAL” information or items may include sensitive, confidential and non-public information or items whose disclosure to another Party or non-party would create a substantial risk of serious injury that could not be avoided by less restrictive means; and

b. “CONFIDENTIAL COUNSEL OF RECORD ONLY” information or items may include highly sensitive, highly confidential, non-public information or items, such as financial records and product development records, whose disclosure even to a Party’s core group of business-decision making employees would create a substantial risk of serious injury that could not be avoided by less restrictive means.

2.4 **Producing Party:** a Party or non-party that produces Disclosure or Discovery Material in this action.

2.5 **Receiving Party:** a Party that receives Disclosure or Discovery Material from a Producing Party.

2.6 **Designating Party:** a Party or non-party that designates information or items that it produces in disclosures or in responses to discovery as “**CONFIDENTIAL**” or “**CONFIDENTIAL COUNSEL OF RECORD ONLY.**”

2.7 **Protected Material:** any Disclosure or Discovery Material that is designated as “**CONFIDENTIAL**” or “**CONFIDENTIAL COUNSEL OF RECORD ONLY.**”

2.8 **Counsel of Record:** attorneys who have filed appearances with and been admitted by the Court on behalf of any Party in this action.

2.9 **Other Counsel:** attorneys who have been retained or employed in any capacity by any Party in this action but have not filed an appearance.

2.10 **Counsel (without qualifier):** Counsel of Record and Other Counsel.

2.11 **Expert:** a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action, who is not a current employee of a Party or of a competitor of a Party and who, at the time of retention, is not anticipated to become an employee of a Party or a competitor of a Party. This definition includes a professional jury or trial consultant retained in connection with this litigation.

2.12 **Professional Vendors:** persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their employees and subcontractors.

3. SCOPE

3.1 The protections conferred by this Stipulated Protective Order cover not only Protected Material (as defined above), but also any information copied or extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by parties or counsel that have not become a matter of public record or publicly available that includes Protected Material. Counsel will work together to discuss how to handle confidential information to be presented at hearings or at trial.

4. ACCESS TO AND USE OF PROTECTED MATERIAL

4.1 **Basic Principles.** A Receiving Party may use Protected Material that has been disclosed, produced, and/or designated in accordance with Section 5 below only for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. Protected Material shall be permitted to be disclosed to persons to the fullest extent possible in accord with the permissions set forth in this Protective Order, where doing so will not cause harm to the Designating Party, to allow all Parties to make decisions regarding this litigation with a full knowledge of the facts. When the litigation has been terminated, a Receiving Party must comply with the provisions of section 10.2 below (Final Disposition). Protected Material

must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

4.2 Disclosure and Use of “CONFIDENTIAL” Information or Items.

Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “CONFIDENTIAL” only to:

(a) The Receiving Party’s core group of employees who are making decisions with respect to this litigation, who sign the Appendix 1 Agreement to be bound by Protective Order attached hereto, and who are identified as follows:

For EdiZONE, LLC: Tony Pearce and Terry Pearce

For Schering-Plough Healthcare Products, Inc.: Steven Howard and Charlie Lundy

For Brown Shoe Company, Inc.: Brian Hanebrink and Maureen McCann

For Target Corporation: Alex Eaton and Kelly Croatt

For Walgreen Co.: Jennifer Bergfeld and Robert Tompkins

For Wal-Mart Stores, Inc.: << Reserved for future designation>>

(b) The Receiving Party’s Counsel of Record in this action, as well as employees of said Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation. Notwithstanding anything stated elsewhere in this Order, Counsel of Record who are also employees of a Party may not disclose to or permit access to Confidential information or items by any other employee of the Party, except

for staff who normally report to and are supervised by such Counsel of Record who are also employees of a Party.

(c) A Receiving Party's Other Counsel who sign the Appendix 1 Agreement to be Bound by Protective Order attached hereto. Notwithstanding anything stated elsewhere in this Order, Other Counsel may not disclose or permit access to Confidential information or items by any other employee of the Party, except for staff who normally report to and are supervised by Other Counsel who are also employees of a Party.

(d) Experts (as defined in this Order) of the Receiving Party whom a party retains or employs for purposes of this litigation only and who signs the Appendix 1 Agreement to be Bound by Protective Order attached hereto.

(e) The Court, Court Reporters, and their respective staffs and personnel.

(f) Professional Vendors to whom disclosure is reasonably necessary for this litigation.

(g) During their depositions, witnesses (1) who are the author or prior listed recipients of the "**CONFIDENTIAL**" document, (2) the original source of the information, or (3) current employees of the Designating Party. Notwithstanding the foregoing, the questioning attorney may show the "**CONFIDENTIAL**" document to a former employee of the Designating Party who is not employed by a competitor at the time of deposition, solely to ask the witness questions to determine: (i) the witness' authorship,

prior receipt or prior access to the “**CONFIDENTIAL**” document, (ii) the witness’ prior knowledge of the subject matter of the CONFIDENTIAL document; or (iii) the witness’ knowledge as to other persons who may have prior knowledge of the subject matter of the CONFIDENTIAL document. If the former employee does not have knowledge as to any of these topics, then such examination shall stop.

4.3 **Disclosure and Use of “CONFIDENTIAL COUNSEL OF RECORD ONLY” Information or Items.** Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” only to:

(a) N/A

(b) The Receiving Party’s Counsel of Record in this action and their staff, Notwithstanding anything stated elsewhere in this Order, Counsel of Record who are also employees of a Party may not disclose to or permit access to Confidential Counsel of Record information or items by any other employee of the Party, except for staff who normally report to and are supervised by Counsel of Record who are also employees of a Party. For purposes of this Protective Order, Richard Billups (Schering-Plough Healthcare, Inc.) and Emily Schultz (Brown Shoe Company, Inc.) shall be treated as Counsel of Record and have access to all Protected Materials produced by Plaintiffs.

(c) N/A

(d) Experts (as defined in this Order) of the Receiving Party whom a party retains or employs for purposes of this litigation only and who signs the Appendix 1 Agreement to be Bound by Protective Order attached hereto.

(e) The Court, Court Reporters, and their respective staffs and personnel.

(f) Professional Vendors to whom disclosure is reasonably necessary for this litigation.

(g) During their depositions, witnesses (1) who are the author or prior listed recipients of the “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” document, (2) the original source of the information, or (3) current employees of the Designating Party. Notwithstanding the foregoing, the questioning attorney may show the “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” document to a former employee of the Designating Party who is not employed by a competitor at the time of deposition, solely to ask the witness questions to determine: (i) the witness’ authorship, prior receipt or prior access to the “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” document, (ii) the witness’ prior knowledge of the subject matter of the “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” document; or (iii) the witness’ knowledge as to other persons who may have prior knowledge of the subject matter of the “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” document. If the former employee does not have knowledge as to any of these topics, then such examination shall stop.

4.4 Notwithstanding anything set forth elsewhere in this Protective Order, no person having access to information or items designated as “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” may be substantively involved in patent prosecution in the area of gel inserts for footwear until the expiration of at least one (1) year after the final resolution termination of this litigation. Such persons may give legal advice as to procedural (but not substantive) aspects of such patent prosecution, and may supervise outside counsel in connection with such patent prosecution, but shall not prosecute the patent, shall not direct the course of such patent prosecution and shall not utilize or disclose any such information or items in giving legal advice or supervising such patent prosecution.

4.5 **Procedures for Approving Disclosure of “CONFIDENTIAL COUNSEL OF RECORD ONLY” Information or Items to “Experts”**

(a) Unless otherwise ordered by the Court or agreed in writing by the Designating Party, a Party that seeks to disclose to an “Expert” (as defined in this Order) any information or item that has been designated as “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” must first make a written request to the Designating Party that (1) sets forth the full name of the Expert and the city and state of his or her primary residence, (2) attaches a copy of the Expert's current resume, (3) identifies the Expert’s current employer(s), (4) identifies each person or entity from whom the Expert has received compensation for work in his or her areas of expertise or to whom the expert has provided professional services at any time during the preceding four years, and (5) identifies (by name and number of the case, filing date, and location of court) any litigation in connection with which the Expert has provided any professional services during the preceding four years;

(b) A Party that makes a request and provides the information specified in the preceding Section may disclose the subject Confidential Counsel of Record Only information or item to the identified Expert unless, within seven calendar days of delivering the request, the Party receives a written objection from the Designating Party. Any such objection must set forth in detail the grounds on which it is based.

(c) A Party that receives a timely written objection must meet and confer with the Designating Party (through direct voice to voice dialogue) to try to resolve the matter by agreement. If no agreement is reached, the Party seeking to make the disclosure to the Expert may file a motion seeking permission from the Court to do so. Any such motion must describe the circumstances with specificity, set forth in detail the reasons for which the disclosure to the Expert is reasonably necessary, assess the risk of harm that the disclosure would entail and suggest any additional means that might be used to reduce that risk. In addition, any such motion must be accompanied by a competent declaration in which the movant describes the Parties' efforts to resolve the matter by agreement (i.e., the extent and the content of the meet and confer discussions) and sets forth the reasons advanced by the Designating Party for its refusal to approve the disclosure. In any such proceeding, the Party opposing disclosure to the Expert shall bear the burden of proving that the risk of harm that the disclosure would entail (under the safeguards proposed) outweighs the Receiving Party's need to disclose the subject information or item to its Expert for use in this litigation.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care By The Designating Party. Each Party or non-party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. A Designating Party must take care to designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or routine designations are prohibited. Protected Material shall not include information or documents that are or become, without violating this Protective Order, a matter of public record or publicly available (by law or otherwise). Further, the designation by any Producing Party of any Protected Material shall constitute a representation that such Protected Material has been reviewed by Counsel of Record and/or Other Counsel for the Producing Party and that there is a good faith basis for the designation.

Designations that are shown to be clearly unjustified, or that have been made for an improper purpose (e.g., to unnecessarily encumber or retard the case development process, or to impose unnecessary expenses and burdens on other parties), expose the Designating Party to sanctions. If it comes to a Party's or a non-party's attention that information or items that it designated for protection do not qualify for protection at all, or do not qualify for the level of protection initially asserted, that Party or non-party must promptly notify all other parties that it is withdrawing the mistaken designation.

5.2 **Manner and Timing of Designations.** Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered, material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced. Designation in conformity with this Order requires:

(a) **for information in documentary form** (apart from transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the legend “**CONFIDENTIAL**” or “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” on each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins). A Party or non-party that makes original documents or materials available for inspection before providing copies to the other party need not designate the status of the documents until after the inspecting Party has indicated which material it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “**CONFIDENTIAL**” or “**CONFIDENTIAL COUNSEL OF RECORD ONLY.**” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order, and then, before producing the specified documents, the Producing Party must affix the appropriate legend on each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) **for testimony given in deposition or in other pretrial or trial proceedings,** that the Party or non-party offering or sponsoring the testimony identify on the record, before the close of the deposition, hearing, or other proceeding, all protected testimony, and further specify any portions of the testimony that qualify as Protected Material. Furthermore, any party may, at any point in time up to and including 20 days after receipt of a deposition transcript, designate the entire transcript or portions thereof as Protected Material. Transcript pages containing Protected Material should be identified with the legend “**CONFIDENTIAL**” or “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” as instructed by the Party or nonparty offering or sponsoring the witness or presenting the testimony.

(c) **for information produced in some form other than documentary, and for any other tangible items,** that the Producing Party must take reasonable steps to provide notice prominently with respect to such information; for example, by affixing in a prominent place on the exterior of the container or containers in which the information or item is stored the legend “**CONFIDENTIAL**” or “**CONFIDENTIAL COUNSEL OF RECORD ONLY.**” If only portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portions as “**CONFIDENTIAL**” or “**CONFIDENTIAL COUNSEL OF RECORD ONLY.**”

5.3 **Inadvertent Failures to Designate.** If timely corrected, an inadvertent failure to designate qualified information or items as “**CONFIDENTIAL**” or “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. If material is appropriately designated as “**CONFIDENTIAL**” or “**CONFIDENTIAL COUNSEL OF RECORD ONLY**” after the material was initially produced, the Receiving Party, on timely notification of the designation, must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

5.4 **Limits on Confidential Information.** Information is not Protected Material under this Protective Order which (a) is shown by contemporaneous documentation of the Receiving Party to have been in its possession prior to receipt from the Producing Party; or (b) becomes, through no fault of the Receiving Party, publicly known; or (c) is furnished to the Receiving Party by a third party without breach of a duty to the Producing Party; or (d) is independently developed by the Receiving Party without access to the Protected Material.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 **Timing of Challenges.** A challenge to a Designating Party’s confidentiality designation should normally be raised promptly after the Receiving Party becomes aware that it disagrees with the Designating Party’s confidentiality designation. However, a Party that elects not to mount a challenge promptly after the original designation is disclosed does not thereby waive its right to later challenge a confidentiality designation. The Designating Party may nonetheless show that the circumstances surrounding the failure to challenge the designation

promptly, taken as a whole, preclude the later challenge in the interests of preserving substantial fairness, avoiding unnecessary economic burdens, and to prevent significant disruption or delay of the litigation.

6.2 **Meet and Confer.** A Party that elects to initiate a challenge to a Designating Party's confidentiality designation must do so in good faith and must begin the process by conferring directly with counsel for the Designating Party. In conferring, the challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Designating Party an opportunity to review the designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. A challenging Party may proceed to the next stage of the challenge process only if it has first engaged in this meet and confer process.

6.3 **Judicial Intervention.** A Party that elects to press a challenge to a confidentiality designation after considering the justification offered by the Designating Party may file and serve a motion that identifies the challenged material and sets forth in detail the basis for the challenge. The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Until the court rules on the challenge, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation.

7. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
OTHER LITIGATION**

7.1 If a Receiving Party is served with a subpoena or a document demand in other litigation that would compel disclosure of any information or items designated in this action as Protected Material, the Receiving Party must promptly notify the Designating Party in writing (by email and fax, if possible) and in no event more than three court days after receiving the subpoena or demand. Such notification must include a copy of the subpoena or document demand.

7.2 The Receiving Party also must promptly inform in writing the person who caused the subpoena or document demand to issue in the other litigation that some or all the material covered by the subpoena or demand is the subject of this Protective Order. In addition, the Receiving Party must deliver a copy of this Protective Order promptly to the Party in the other action that caused the subpoena or demand to issue.

7.3 The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or document demand issued. The Designating Party shall bear the burdens and the expenses of seeking protection in that court of its Protected Material and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL.

8.1 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material, and (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A, and (e) provide a copy of that Acknowledgement or comparable papers to the Designating Party.

9. FILING PROTECTED MATERIAL.

9.1 A Party that seeks to file under seal any Protected Material must comply with Local Rules of this Court.

10. TERM AND TERMINATION

10.1 **Duration.** Even after the termination of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs or the underlying material becomes public through no action of the Receiving Party.

10.2 **Final Disposition.** Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days after the final termination of this action, including exhaustion of all rights to appeal, each Receiving Party must return all Protected Material to the

Producing Party. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries or any other form of reproducing or capturing any of the Protected Material. The Receiving Party may destroy some or all of the Protected Material instead of returning it. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the sixty day deadline affirming that all the Protected Material was returned or destroyed and that the Receiving Party has not retained any copies, abstracts, compilations, summaries or other forms of reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, court filings, discovery responses, transcripts, legal memoranda, correspondence or attorney work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4, above.

11. MISCELLANEOUS

11.1 **Right to Further Relief.** Nothing in this Order limits the right of any Party or person to seek modification of this Order by the Court in the future.

11.2 **Right to Assert Other Objections.** By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order. Nothing in this Protective Order shall be construed as a finding that any designated Protected Material actually constitutes or contains proprietary or confidential material or

trade secrets. For purposes of this order, Protected Material shall not include information or any item that (a) has become public knowledge in a manner other than by violation of this Order; (b) is acquired by the Receiving Party from a third party having the right to disclose voluntarily such information or material; (c) was lawfully possessed by the Receiving Part prior to the entry of this Order by the Court; or (d) was lawfully developed by the Receiving Party independent of the information or item produced under the Protective Order.

11.3 **Inadvertent Production of Privileged Documents.** If a party through inadvertence produces or provides discovery which it believes is subject to a claim of attorney-client privilege or work product immunity, the Producing Party must promptly give written notice to the Receiving Party or parties that the information or material is subject to a claim of attorney-client privilege or work product immunity and request that the information or material be returned to the Producing Party. If the Receiving Party recognizes that the Producing Party has provided information which is likely subject to a claim of attorney-client privilege or work product immunity, the Receiving Party shall promptly notify the Producing Party about the situation. In either event, the Receiving Party or parties shall return to the Producing Party such information or material upon request. Such inadvertent production of privileged material shall not be deemed a waiver of any asserted privilege or protection. Return of the information or material by the Receiving Party shall not constitute an admission or concession, or permit any inference, that the returned information or material is, in fact, properly subject to a claim of attorney-client privilege or work product immunity nor shall it foreclose any Party from moving the court for an order that such information or material has been improperly designated or should be producible for reasons other than a waiver caused by the inadvertent production.

11.4 **Advice to Clients.** Nothing in this Protective Order shall bar or otherwise restrict any counsel for the parties from rendering advice to his or her client with respect to this action. In the course of doing so, said counsel may generally refer to or rely upon his or her examination of Protected Material, but shall not disclose the specific contents of the Protected Material to persons not authorized to receive such Protected Material pursuant to this Protective Order, except by written agreement with counsel for the Designating Party.

11.5 **Non-Parties.** The terms of this Protective Order are applicable to Protected Material produced by a non-party, and a party or a non-party may designate material produced in connection with this litigation as "**CONFIDENTIAL**" or "**CONFIDENTIAL COUNSEL OF RECORD ONLY**" information. Such material so designated will be protected by the remedies and relief provided by the Protective Order.

Dated this 21st day of June 2011.

Respectfully submitted,

Stipulated to and with signature permission by:

/s/ Casey K. McGarvey
Casey K. McGarvey
EdiZONE, LLC
123 E. 200 North
Alpine, Utah 84004
T: (801) 936-1039

Attorneys for Plaintiff EdiZONE, LLC

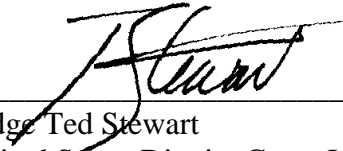
/s/ Elisabeth M. McOmber
Alan L. Sullivan
Elisabeth M. McOmber
Snell & Wilmer
15 W. South Temple, # 1200
Salt Lake City, UT 84101-1531

Daniel A. Boehnen (admitted *pro hac vice*)
Grantland G. Drutchas (admitted *pro hac vice*)
Nicole Keenan (admitted *pro hac vice*)
McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

Attorneys for Defendants

SO ORDERED:

June 22, 2011
Date



Judge Ted Stewart
United States District Court Judge

APPENDIX 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<p>EDIZONE, LLC,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>SCHERING-PLOUGH HEALTHCARE PRODUCTS, INC., BROWN SHOE COMPANY, INC., WAL-MART STORES, INC., TARGET CORPORATION, WALGREEN CO., and DOES 1 – 50,</p> <p style="text-align: center;">Defendants</p>	<p style="text-align: center;">Case No.: 2:10-cv-00855-TS</p> <p style="text-align: center;">District Judge Ted Stewart</p>
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AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

I, _____, state the following under penalties of perjury as provided by law:

I have been retained by _____ as an expert or consultant in connection with this case. I will be receiving Protected Material that is covered by the Court's Protective Order in this case dated _____, 2011. I have read the Court's Protective Order and understand that the Protected Material is provided pursuant to the terms and conditions in that Order.

I agree to be bound by the Court's Protective Order. I agree to use the Protected Material solely for purposes of this case. I understand that neither the Protected Material nor any notes concerning that information maybe disclosed to anyone that is not bound by the Court's Protective Order. I agree to return the Protected Material and any notes concerning that information to the attorney for _____ or to destroy the

information and any notes at that attorney's request, certifying such destruction in writing to said attorney.

I submit to the jurisdiction of the Court that issued the Protective Order for purposes of enforcing that Order. I give up any objections I might have to that Court's jurisdiction over me or to the propriety of venue in that Court.

Date

Name:
Address:

Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Public

13275229.1

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

THELMA ANDERSON, o/b/o TERRY
ANDERSEN, DECEASED,

Plaintiff,

vs.

MICHAEL J. ASTRUE,
Commissioner of Social
Security,

Defendant.

SCHEDULING ORDER

Case No. 2:10-cv-872-CW-SA

Before the Court is Plaintiff's Unopposed Motion for Scheduling Order. (Doc. 17.) This Social Security appeal has been referred to the United States Magistrate Judge for appropriate proceedings, pursuant to 28 U.S.C. § 636(b)(1)(B). In order to facilitate the prompt disposition of this case by the Court,

IT IS HEREBY ORDERED that **within eleven days of the date of this scheduling order**, the parties shall file a joint statement as to the following items:

1. A statement as to whether oral argument to follow briefing is desired.
2. A statement as to whether, pursuant to 28 U.S.C. §

636(c), both parties consent to the United States Magistrate Judge conducting all proceedings in the case, including entry of final judgment, with appeal to the United States Court of Appeals for the Tenth Circuit. The parties are advised that they are free to withhold consent without adverse substantive consequences. See 28 U.S.C. § 636(c); Fed. R. Civ. P. 73(b).

3. A description of any pending or contemplated motions.

IT IS FURTHER ORDERED that Plaintiff's Unopposed Motion for Scheduling Order (Doc. 17) is **GRANTED**. The Court adopts the following dates, which were presented to the Court by the parties as the proposed briefing due dates. Thus, **IT IS FURTHER ORDERED** that, on or before the following dates, the parties shall file and serve a memorandum setting forth concisely the basis for the affirmance or reversal of the Commissioner's final decision, or request for remand under sentence six of 42 U.S.C. § 405(g), and a detailed analysis of the administrative record with ***pinpoint citations*** of authorities in support of the party's position, and to the administrative record:

PLAINTIFF: June 20, 2011

COMMISSIONER: July 30, 2011

PLAINTIFF'S REPLY (if any): August 19, 2011

The text of the memoranda, including footnotes, must be in a 12-

point font size.

Upon receipt of the parties' memoranda, if oral argument has been requested, the Court will determine whether oral argument will be scheduled. Oral argument is not a necessary part of the review process, and the Court normally determines Social Security appeals on the basis of the briefs without oral argument. See D. U. Civ. R. 7-1(f).

In the absence of consent to jurisdiction of the Magistrate Judge pursuant to 28 U.S.C. § 636(c), the Magistrate Judge will prepare a Report and Recommendation for consideration by the assigned District Court Judge.

The Court will make every effort to enter a final determination of this appeal in a timely manner. Motion practice in accordance with Rule 12(c) (judgment on the pleadings) or Rule 56 (summary judgment) of the Federal Rules of Civil Procedure is inappropriate.

DATED this 21st day of June, 2011.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Samuel Alba", is written over a horizontal line.

Samuel Alba
United States Magistrate Judge

CATHETER FLUSHING LLC

V.

Defendants.

**ORDER OF DISMISSAL WITH
PREJUDICE AS TO DEFENDANT
NAVILYST MEDICAL, INC.**

Jena Campbell

1

UNITED STATES DISTRICT COURT
FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
CENTRAL DIVISION, DISTRICT OF UTAH

UNITED STATES OF AMERICA

JUN 16 2011

ORDER OF PROBATION

V.

D. MARK JONES, CLERK

UNDER 18 U.S.C. § 3607

BY

DEPUTY CLERK

Kelby Halladay

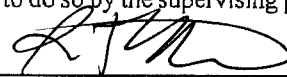
CASE NUMBER: 2:11-CR-73

The defendant having been found guilty of an offense described in 21 U.S.C. 844, and it appearing that the defendant (1) has not, prior to the commission of such offense, been convicted of violating a federal or state law relating to controlled substances, and (2) has not previously been the subject of a disposition under this subsection,

IT IS ORDERED that the defendant is placed on probation as provided in 18 U.S.C. § 3607 for a period of 12 months without a judgment of conviction first being entered. The defendant shall comply with the conditions of probation set forth on the next page of this Order, and the following special conditions:

The defendant:

- 1) Shall pay a \$1,000.00 fine, a \$25.00 special assessment fee and a \$115.00 drug testing fee.
- 2) Shall participate in a drug education and/or treatment program if ordered to do so by the supervising probation officer.
- 3) Shall undergo drug testing, including but not limited to urinalysis, if ordered to do so by the supervising probation officer.



Signature of Judge

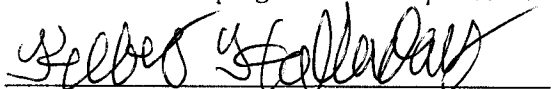
MAGISTRATE Judge Robert T. Braithwaite
Name and Title of Judge

CONSENT OF THE DEFENDANT

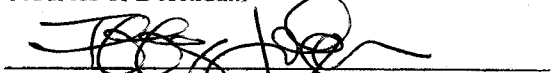
I have read the proposed Order of Probation Under 18 U.S.C. § 3607 and the Conditions of Probation. I understand that if I violate any conditions of probation, the court may enter a judgment of conviction and proceed as provided by law. I consent to the entry of the Order.

I also understand that, if I have not violated any condition of my probation, the Court, without entering a judgment of conviction, (1) may dismiss the proceedings and discharge me from probation before the expiration of the term of probation, or (2) shall dismiss the proceedings and discharge me from probation at the expiration of the term of probation.

My date of birth _____, and I am ☒ am not ☐ entitled to an expungement order as provided in 18 U.S.C. § 3607(c), if the proceedings are dismissed.


Signature of Defendant

Address of Defendant


Signature of Defense Counsel

Tiffany Johnson
Printed Name of Defense Counsel

6/16/11

Date

CONDITIONS OF PROBATION

While the defendant is on probation, the defendant:

- 1) shall not commit another federal, state or local crime.
- 2) shall not leave the judicial district without the permission of the court or probation officer;
- 3) shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 4) shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 5) shall support his or her dependents and meet other family responsibilities;
- 6) shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 7) shall notify the probation officer at least ten days prior to any change in residence or employment;
- 8) shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 9) shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 10) shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 11) shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 12) shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 13) shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 14) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement; and
- 15) shall not possess a firearm or destructive device.

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA Plaintiff(s), vs. ROBERT BODILY Defendant(s),	PRETRIAL ORDER PURSUANT TO RULE 17.1 F.R.Cr.P. Case No. 2:11-CR-231 TC
--	--

The above-entitled action came on for status conference May 2, 2011, before David Nuffer, United States Magistrate Judge. Defense counsel and the Assistant United States Attorney were present. Based thereon the following is entered:

1. A jury trial in this matter is reset for Monday, July 11, 2011, (3 days) at 8:30 a.m.. It appears the trial date is appropriate if the matter is to be tried. Proposed instructions are to be delivered to Judge Tena Campbell by July 7, 2011 along with any proposed voir dire questions.

2. The government has an open file policy re: discovery.

Yes X No

The government shall provide defense counsel with a copy of the defendant's criminal history. Defense counsel shall not permit

further dissemination of the document.

3. It is unknown if this case will be resolved by a negotiated plea of some kind. If so, plea negotiations should be completed by June 27, 2011. If negotiations are not completed for a plea by the date set, the case will be tried.

4. Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

5. Defendant's release or detention status: Released.

6. All exhibits will be premarked before Judge Tena Campbell's clerk before trial.

7. Other order and directions are:

8. Interpreter Needed: Yes ☐ No ☒ Language _____

DATED this 21st day of June, 2011.

BY THE COURT:



David Nuffer
Magistrate Judge

MARY C. CORPORON #734
Attorney for Defendant, Verlyn Melvin Pindell
CORPORON & WILLIAMS, P.C.
405 South Main Street, Suite #700
Salt Lake City, Utah 84111
Telephone: (801) 328-1162
Facsimile: (801) 328-9565

IN THE UNITED STATES DISTRICT COURT,
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	ORDER CONTINUING TRIAL
	:	
Plaintiff,	:	
	:	
-vs-	:	Case No. 2:11-CR-00310 DAK
	:	
VERLYN MELVIN PINDELL,	:	Judge Dale A. Kimball
	:	Magistrate Judge
Defendant.	:	

BASED UPON the motion of defendant, the stipulation of the prosecution and good cause appearing it is HEREBY ORDERED that the trial in the above matter currently set for July 25, 2011, shall be and is continued until the **13th day of September, 2011, at 8:30 a.m.** The court finds that the ends of justice outweigh the need of the defendant and the public for a speedy trial. Specifically, defendant's counsel needs additional time to prepare the defense. Further, a suppression motion has been filed. Therefore, the Speedy Trial Act pursuant to 18 U.S.C. 3161(h)(7)(A), is tolled. The court finds that the case is not so complex as to qualify under 18 U.S.C. 3161 (h)(7)(B)(ii); however

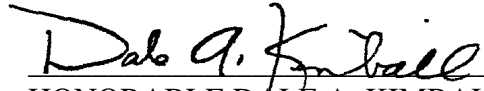
the court finds that the case does fall under 18 U.S.C. 3161 (h)(7)(B)(iv) and that defense counsel needs this additional time to adequately prepare the defense taking into account the exercise of due diligence.

Specifically, the court finds as follows:

1. The defense has only been on this case for approximately four and one-half weeks.
2. This case involves potentially voluminous government records and government expert witnesses.
3. The defense may need its own experts to evaluate and possibly rebut the claims of the government experts.
4. The defense has been diligent in preparation. The defense needs additional time to interview additional witnesses.
5. Failure to grant this continuance will result in a miscarriage of justice and prevent a fair trial.
6. The court has considered to question of due diligence and finds that the defense has been diligently preparing the case.
7. The court has balanced the need for the public and the defendant to have a speedy trial against the need for a fair trial and adequate preparation and finds that the scales tip in favor of granting a continuance.

So ordered this 22nd day of June, 2011.

BY THE COURT:


HONORABLE DALE A. KIMBALL
U.S. DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused the foregoing to be provided to:

Scott B. Romney
Assistant United States Attorney
Office of the U.S. Attorney
185 South State, #400
Salt Lake City, Utah 84111

on the 21st day of June, 2011.

/s/ Tauni Barton

UNITED STATES DISTRICT COURT

DISTRICT OF UTAH
FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

UNITED STATES OF AMERICA

V.

JUN 16 2011

ORDER OF PROBATION

UNDER 18 U.S.C. § 3607

Darren Shippee

BY D. MARK JONES, CLERK
DEPUTY CLERK

CASE NUMBER: *2:11-CR-322*

The defendant having been found guilty of an offense described in 21 U.S.C. 844, and it appearing that the defendant (1) has not, prior to the commission of such offense, been convicted of violating a federal or state law relating to controlled substances, and (2) has not previously been the subject of a disposition under this subsection,

IT IS ORDERED that the defendant is placed on * probation as provided in 18 U.S.C. § 3607 for a period _____ without a judgment of conviction first being entered. The defendant shall comply with the conditions of probation set forth on the next page of this Order, and the following special conditions:

- 1-[*] The defendant shall participate in a drug education and/or treatment program * if ordered to do so by the supervising probation officer.
- 2-[*] The defendant shall undergo drug testing, including but not limited to urinalysis * if ordered to do so by the supervising probation officer.
- 3-✓ *1000 fine, a \$25.00 spa and one time 115 one time urinalysis fee.*

[Signature]

Signature of Judge

Robert T. Braithwaite, U.S. Magistrate Judge

CONSENT OF THE DEFENDANT

I have read the proposed Order of Probation Under 18 U.S.C. § 3607 and the Conditions of Probation. I understand that if I violate any conditions of probation, the court may enter a judgment of conviction and proceed as provided by law. I consent to the entry of the Order.

I also understand that, if I have not violated any condition of my probation, the Court, without entering a judgment of conviction, (1) may dismiss the proceedings and discharge me from probation before the expiration of the term of probation, or (2) shall dismiss the proceedings and discharge me from probation at the expiration of the term of probation.

My date of birth is _____, and I am ☒ am not ☐ entitled to an expungement order as 18 U.S.C. § 3607(c), if the proceedings are dismissed.

[Signature]
Signature of Defendant

Address of Defendant _____

Signature of Defense Counsel

Edward J. Stone
Printed Name of Defense Counsel

6-16-11
Date

CONDITIONS OF PROBATION

While the defendant is on probation, the defendant:

- [*] shall not commit another federal, state or local crime.
- [*] shall not leave the judicial district without the permission of the court or probation officer;
- [*] shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- [*] shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- [*] shall support his or her dependents and meet other family responsibilities;
- [*] shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- [*] shall notify the probation officer at least ten days prior to any change in residence or employment;
- [*] shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- [*] shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- [*] shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- [*] shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- [*] shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- [*] shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- [*] as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement; and
- [*] shall not possess a firearm or destructive device.

UNITED STATES DISTRICT COURT

JUN 16 2011

CENTRAL DIVISION DISTRICT OF UTAH

BY D. MARK JONES, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA

V.

ORDER OF PROBATION
UNDER 18 U.S.C. § 3607*Brooke Ottens*CASE NUMBER: *2:11cr00324*

The defendant having been found guilty of an offense described in 21 U.S.C. 844, and it appearing that the defendant (1) has not, prior to the commission of such offense, been convicted of violating a federal or state law relating to controlled substances, and (2) has not previously been the subject of a disposition under this subsection,

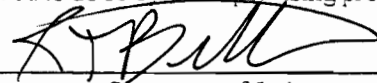
IT IS ORDERED that the defendant is placed on probation as provided in 18 U.S.C. § 3607 for a period of 12 months without a judgment of conviction first being entered. The defendant shall comply with the conditions of probation set forth on the next page of this Order, and the following special conditions:

The defendant:

- 1) Shall pay a \$1,000.00 fine, a \$25.00 special assessment fee and a \$115.00 drug testing fee.
- 2) Shall participate in a drug education and/or treatment program if ordered to do so by the supervising probation officer.
- 3) Shall undergo drug testing, including but not limited to urinalysis, if ordered to do so by the supervising probation officer.

4) *Def is allowed to do community service in lieu of some fine \$10/hr.*

5) *community service list of locations maybe provided by the US Probation Office.*


Signature of Judge

Name and Title of Judge

CONSENT OF THE DEFENDANT

I have read the proposed Order of Probation Under 18 U.S.C. § 3607 and the Conditions of Probation. I understand that if I violate any conditions of probation, the court may enter a judgment of conviction and proceed as provided by law. I consent to the entry of the Order.

I also understand that, if I have not violated any condition of my probation, the Court, without entering a judgment of conviction, (1) may dismiss the proceedings and discharge me from probation before the expiration of the term of probation, or (2) shall dismiss the proceedings and discharge me from probation at the expiration of the term of probation.

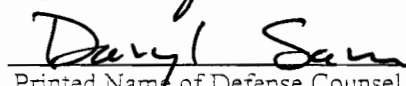
My date of birth: _____
18 U.S.C. § 3607(c), if the proceedings are dismissed.

I am ☐ am not ☒ entitled to an expungement order as provided in

Signature of Defendant

Address of Defendant


Signature of Defense Counsel


Printed Name of Defense Counsel
JUNE 16, 2011

Date

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF UTAH
 UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

UNITED STATES OF AMERICA

V.

JUN 16 2011

ORDER OF PROBATION

UNDER 18 U.S.C. § 3607

BY D. MARK JONES, CLERK

DEPUTY CLERK

Justin Traynor

CASE NUMBER: *2:11cr325*

The defendant having been found guilty of an offense described in 21 U.S.C. 844, and it appearing that the defendant (1) has not, prior to the commission of such offense, been convicted of violating a federal or state law relating to controlled substances, and (2) has not previously been the subject of a disposition under this subsection,

IT IS ORDERED that the defendant is placed on probation as provided in 18 U.S.C. § 3607 for a period of 12 months without a judgment of conviction first being entered. The defendant shall comply with the conditions of probation set forth on the next page of this Order, and the following special conditions:

The defendant:

- 1) Shall pay a \$1,000.00 fine, a \$25.00 special assessment fee and a \$115.00 drug testing fee.
- 2) Shall participate in a drug education and/or treatment program if ordered to do so by the supervising probation officer.
- 3) Shall undergo drug testing, including but not limited to urinalysis, if ordered to do so by the supervising probation officer.

4) Defendant is allowed to do
 Community Service in lieu of
 some fine \$10/hr.

[Signature]
 Signature of Judge

Magistrate Judge Robert T. Braithwaite
 Name and Title of Judge

5) Community Service hours
 list of locations provided
 by the Probation Office.

CONSENT OF THE DEFENDANT

I have read the proposed Order of Probation Under 18 U.S.C. § 3607 and the Conditions of Probation. I understand that if I violate any conditions of probation, the court may enter a judgment of conviction and proceed as provided by law. I consent to the entry of the Order.

I also understand that, if I have not violated any condition of my probation, the Court, without entering a judgment of conviction, (1) may dismiss the proceedings and discharge me from probation before the expiration of the term of probation, or (2) shall dismiss the proceedings and discharge me from probation at the expiration of the term of probation.

My date of birth is _____, and I am ☒ am not ☐ entitled to an expungement order as provided in 18 U.S.C. § 3607(c), if the proceedings are dismissed.

[Signature]
 Signature of Defendant

Address of Defendant

[Signature]
 Signature of Defense Counsel

Daryl Sam
 Printed Name of Defense Counsel

06-16-2011

Date

UNITED STATES DISTRICT COURT

FILED IN UNITED DISTRICT OF UTAH
CENTRAL DIVISION
COURT, DISTRICT OF UTAH

UNITED STATES OF AMERICA

V.

Cody Titcomb

JUN 16 2011
BY D. MARK JONES, CLERK
DEPUTY CLERK

ORDER OF PROBATION

UNDER 18 U.S.C. § 3607

CASE NUMBER: 2:11 CR 333 RTB

The defendant having been found guilty of an offense described in 21 U.S.C. 844, and it appearing that the defendant (1) has not, prior to the commission of such offense, been convicted of violating a federal or state law relating to controlled substances, and (2) has not previously been the subject of a disposition under this subsection,

IT IS ORDERED that the defendant is placed on probation as provided in 18 U.S.C. § 3607 for a period of 12 months without a judgment of conviction first being entered. The defendant shall comply with the conditions of probation set forth on the next page of this Order, and the following special conditions:

The defendant:

- 1) Shall pay a \$1,000.00 fine, a \$25.00 special assessment fee and a \$115.00 drug testing fee.
- 2) Shall participate in a drug education and/or treatment program if ordered to do so by the supervising probation officer.
- 3) Shall undergo drug testing, including but not limited to urinalysis, if ordered to do so by the supervising probation officer.

4) Dft allowed to do community service in lieu of payment. Community service list of locations provided by the US Probation Office. (FINE)

[Signature]
Signature of Judge

MAGISTRATE JUDGE Robert T. Braithwaite
Name and Title of Judge

CONSENT OF THE DEFENDANT

I have read the proposed Order of Probation Under 18 U.S.C. § 3607 and the Conditions of Probation. I understand that if I violate any conditions of probation, the court may enter a judgment of conviction and proceed as provided by law. I consent to the entry of the Order.

I also understand that, if I have not violated any condition of my probation, the Court, without entering a judgment of conviction, (1) may dismiss the proceedings and discharge me from probation before the expiration of the term of probation, or (2) shall dismiss the proceedings and discharge me from probation at the expiration of the term of probation.

My date of birth is _____ and I am ☒ am not ☐ entitled to an expungement order as provided in 18 U.S.C. § 3607(c), if the proceedings are dismissed.

[Signature]
Signature of Defendant

Address of Defendant

[Signature]
Signature of Defense Counsel

Natalie Benson
Printed Name of Defense Counsel

6/16/11
Date

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

UNITED STATES DISTRICT COURT

JUN 16 2011

CENTRAL DIVISION DISTRICT OF UTAH

BY D. MARK JONES, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA

V.

ORDER OF PROBATION

UNDER 18 U.S.C. § 3607

Jacob Stehlin

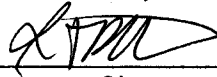
CASE NUMBER: 2:11 CR 352 RTB

The defendant having been found guilty of an offense described in 21 U.S.C. 844, and it appearing that the defendant (1) has not, prior to the commission of such offense, been convicted of violating a federal or state law relating to controlled substances, and (2) has not previously been the subject of a disposition under this subsection,

IT IS ORDERED that the defendant is placed on probation as provided in 18 U.S.C. § 3607 for a period of 12 months without a judgment of conviction first being entered. The defendant shall comply with the conditions of probation set forth on the next page of this Order, and the following special conditions:

The defendant:

- 1) Shall pay a \$1,000.00 fine, a \$25.00 special assessment fee and a \$115.00 drug testing fee.
- 2) Shall participate in a drug education and/or treatment program if ordered to do so by the supervising probation officer.
- 3) Shall undergo drug testing, including but not limited to urinalysis, if ordered to do so by the supervising probation officer.



Signature of Judge

Magistrate Judge Robert T. Braithwaite

Name and Title of Judge

CONSENT OF THE DEFENDANT

I have read the proposed Order of Probation Under 18 U.S.C. § 3607 and the Conditions of Probation. I understand that if I violate any conditions of probation, the court may enter a judgment of conviction and proceed as provided by law. I consent to the entry of the Order.

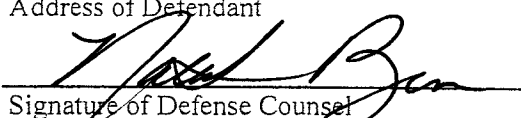
I also understand that, if I have not violated any condition of my probation, the Court, without entering a judgment of conviction, (1) may dismiss the proceedings and discharge me from probation before the expiration of the term of probation, or (2) shall dismiss the proceedings and discharge me from probation at the expiration of the term of probation.

My date of birth 6/16/2011, and I am ☒ am not ☐ entitled to an expungement order as provided in 18 U.S.C. § 3607(c), if the proceedings are dismissed.



Signature of Defendant

Address of Defendant



Signature of Defense Counsel

Natalie Benson

Printed Name of Defense Counsel

Date

FILED
U.S. DISTRICT COURT

2011 JUN 20 P 2:23

DISTRICT OF UTAH

BY: 
DEPUTY CLERK

recd
~~FILED~~
U.S. DISTRICT COURT

2011 JUN 16 P 4:56

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

FREDERICK A. JACKMAN (1632)
FREDERICK A. JACKMAN, P.C.
867 North 900 West
Orem, UT 84604
Telephone: (801) 225-1632
Fax: (801) 225-9443
mail@jackmanlaw.com
Attorney for the Defendant

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL CHARLES KERBY,

Defendant.

**ORDER CONTINUING
TRIAL**

Case No. 2:11cr00354 DAK

Judge Dale A. Kimball

The court, having considered the Motion to Continue Jury Trial filed by defendant Daniel Charles Kerby ("Defendant") and the factors set forth in 18 U.S.C. § 3161(h)(7)(B)(i) through (iv), makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On April 27, 2011, Defendant was charged with the violation of knowingly distributing child pornography, as defined in 18 U.S.C. § 2256(8), that had been shipped and transported in and affecting interstate and foreign commerce by any means, including by

computer, all in violation of 18 U.S.C. §2252(a)(2) and (b); and knowingly possessing any material which contains an image of child pornography, as defined in 18 U.S.C. § 2256(8), that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, and which images were produced using materials that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, and attempted to do so, all in violation of 18 U.S.C. §2252A(a)(5)(B) along with the intent to seek criminal forfeiture.

2. Defendant's trial is scheduled for July 5 and 6, 2011.
3. Defendant received the fourth installment of discovery which consists of computer images and other records on June 8, 2011, having been mailed on June 3, 2011. This discovery, along with the previous discovery, includes voluminous amounts of computer records which need to be reviewed.
4. Defendant needs additional time to analyze and evaluate the materials, including possibly contacting an expert to aid the Defendant in his defense.
5. Counsel for the Defendant has explained to the Defendant his constitutional right to a speedy trial and Defendant desires additional time to prepare his defense. Defendant specifically waives his right to a speedy trial.
6. On June 13, 2011, Defendant's counsel contacted counsel for the United States, Carol A. Dain, and asked for an agreement to continue the trial for at least 90 days to allow for

adequate preparation and possible discussion which may result in the resolution of the case. Ms. Dain agreed to a continuance.

7. Counsel for Defendant requests a continuance to prepare for trial.

Based on the foregoing findings of fact and conclusions of law, the court hereby orders:

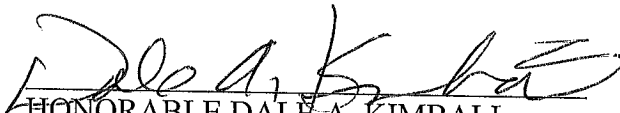
ORDER

1. The trial scheduled in this matter for July 5 and 6, 2011 is stricken and reset for

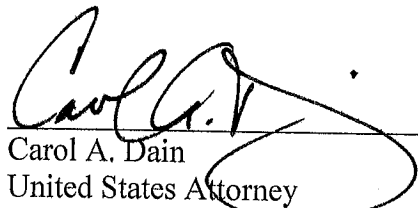
October 12, 2011, at 8:30 a.m.

DATED this 17th day of June, 2011.

DATED this 16th day of June, 2011


HONORABLE DALE A. KIMBALL
United States District Court Judge

Approved:


Carol A. Dain
United States Attorney

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

JUN 22 2011
BY D. MARK JONES, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STEVEN BUNDERSON,

Defendant.

No. 2:11CR00408-DB

ORDER GRANTING MOTION FOR
PROTECTIVE ORDER

Judge Dee Benson

Having heard the United States motion for a protective order made during the Defendant's initial appearance, and having read the United States Motion for Protective Order, the Court hereby finds that a protective order is necessary and appropriate in this case to prevent harmful disclosure of the personal identifying information of various individuals, while still preserving the defendants' right to a fair trial and meaningful discovery. Pursuant to the court's authority under Federal Rule of Criminal Procedure 16(d)(1), it is hereby ordered:

1. The United States is hereby ordered to provide to the Defendants unredacted copies of the discovery in this matter, including documents that contain the personal identifying information of third parties.
2. The unredacted documents produced to the defendants pursuant to this order shall not be disclosed or made available for inspection or copying to any person, other than as permitted in Paragraph 3.

3. Redacted documents provided to the defendants pursuant to this order may be further disclosed to the following people: (a) counsel for the defendant; (b) associates, secretaries, paralegals, private investigators, forensic accountants and other employees or independent contractors of such attorney to the extent necessary to render professional services in this criminal prosecution; and (c) court officials involved in this case.
4. Persons obtaining access to the documents produced pursuant to this order shall use the information only for the preparation and conduct of this criminal trial, and any connected hearings or appeals. No information disclosed pursuant to this order shall be used for any other purpose or any other proceeding.
5. Within 90 days of the conclusion of this case, all documents produced pursuant to this order, and all copies thereof (other than exhibits of the court) shall be returned to the United States Attorney's Office. Alternatively, counsel for the defendant may inform the United States Attorney's Office in writing that all such copies have been destroyed.
6. Counsel for the defendants is responsible for employing reasonable measures to control duplication of, and access to, the unredacted discovery documents.
7. The provisions of this order governing disclosure and use of the documents shall not terminate at the conclusion of this criminal prosecution.

Signed this 21 day of June, 2011.



DEE BENSON
United States District Judge

FILED
U.S. DISTRICT COURT

2011 JUN 21 P 2:31

DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT

BY: Ce
DEPUTY CLERK

DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUIS MORALES-MORALES,

Defendant.

: Case No.: 2:11cr00444 TS

: ORDER TO
REASSIGN CASE

: JUDGE TED STEWART

Based on the United States' motion, and good cause appearing, this Court
orders the clerk's office to reassign Case No. 2:11cr00444 TS to Judge Campbell
IT IS SO ORDERED.

Dated this 21st day of June, 2011.

Ted Stewart
TED STEWART
District Court Judge

UNITED STATES DISTRICT COURT

CENTRAL DIVISION
FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

UNITED STATES OF AMERICA

V.

JUN 16 2011

ORDER OF PROBATION

UNDER 18 U.S.C. § 3607

D. MARK JONES, CLERK

Vance Howard

DEPUTY CLERK

CASE NUMBER:

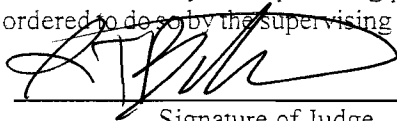
2:11 CR 481 RTB

The defendant having been found guilty of an offense described in 21 U.S.C. 844, and it appearing that the defendant (1) has not, prior to the commission of such offense, been convicted of violating a federal or state law relating to controlled substances, and (2) has not previously been the subject of a disposition under this subsection,

IT IS ORDERED that the defendant is placed on probation as provided in 18 U.S.C. § 3607 for a period of 12 months without a judgment of conviction first being entered. The defendant shall comply with the conditions of probation set forth on the next page of this Order, and the following special conditions:

The defendant:

- 1) Shall pay a \$1,000.00 fine, a \$25.00 special assessment fee and a \$115.00 drug testing fee.
- 2) Shall participate in a drug education and/or treatment program if ordered to do so by the supervising probation officer.
- 3) Shall undergo drug testing, including but not limited to urinalysis, if ordered to do so by the supervising probation officer.



Signature of Judge

Magistrate Judge Robert T. Braithwaite

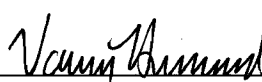
Name and Title of Judge

CONSENT OF THE DEFENDANT

I have read the proposed Order of Probation Under 18 U.S.C. § 3607 and the Conditions of Probation. I understand that if I violate any conditions of probation, the court may enter a judgment of conviction and proceed as provided by law. I consent to the entry of the Order.

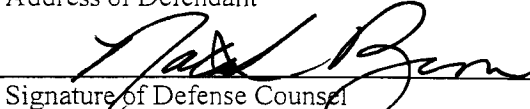
I also understand that, if I have not violated any condition of my probation, the Court, without entering a judgment of conviction, (1) may dismiss the proceedings and discharge me from probation before the expiration of the term of probation, or (2) shall dismiss the proceedings and discharge me from probation at the expiration of the term of probation.

My date of birth is _____ and I am ☒ am not ☐ entitled to an expungement order as provided in 18 U.S.C. § 3607(c), if the proceedings are dismissed.



Signature of Defendant

Address of Defendant



Signature of Defense Counsel

Natalie Benson

Printed Name of Defense Counsel

6/16/11

Date

IN THE UNITED STATES DISTRICT COURT
CENTRAL DIVISION, DISTRICT OF UTAH

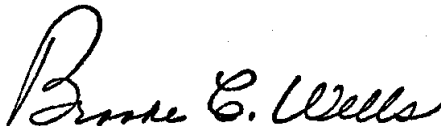
ALLAN RICHARDS,	:	Civil No. 2:11-cv-306
Plaintiff,	:	ORDER
vs.	:	JUDGE CLARK WADDOUPS
FIRST FRANKLIN LOAN SERVICES, RESIDENTIAL CREDIT SOLUTIONS, INC., FNMA and ALL OTHERS THAT MAY CLAIM,	:	MAGISTRATE JUDGE BROOKE C. WELLS
Defendants.		

Upon review of the pleadings, there being no opposition to the defendants' pending Motion To Dismiss, and good cause appearing therefore, IT IS HEREBY ORDERED:

Plaintiff's claims against Defendants Residential Credit Solutions, Inc. and FNMA are hereby dismissed with prejudice.

DATED this 22nd day of June, 2011.

BY THE COURT:



Brooke C. Wells
United States Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

Hellen Y. Chong,
d/b/a Ocean City Seafood Market

Plaintiff,

v.

United States of America, and Thomas J.
Vilsack, Secretary of Agriculture,

Defendants.

Civil No. 2:11-cv-307-BCW

**ORDER GRANTING DEFENDANTS'
UNOPPOSED MOTION FOR
EXTENSION OF TIME TO RESPOND
TO COMPLAINT**

Magistrate Judge Brooke C. Wells

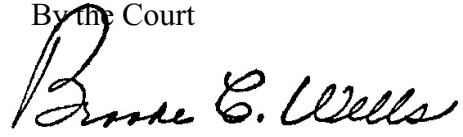
Having reviewed the unopposed motion of Defendants for an open-ended extension of time to file and serve their response to the Complaint in this action while the parties explore settlement negotiations, and finding good cause for the same,

IT IS HEREBY ORDERED AS FOLLOWS:

Defendants' motion is GRANTED subject to the provision that Plaintiff may end this extension by a written notice to counsel for Defendants giving Defendants at least ten days notice to file their response to the Complaint.

Dated this 22nd day of June 2011.

By the Court

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is written in a cursive style with a large, stylized initial "B".

Hon. Brooke C. Wells
United States Magistrate Judge

Thomas M. Melton (Utah State Bar No. 4999)
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Salt Lake City, Utah 84101
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Facsimile: 801-524-5262

FILED
U.S. DISTRICT COURT
RECEIVED
2011 JUN 22 A 10:37
JUN 21 2011
DISTRICT OF UTAH
BY: **OFFICE OF**
JUDGE TENA CAMPBELL
DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

SECURITIES AND EXCHANGE COMMISSION,

Civil No. 2:11CV00357

PLAINTIFF,

Judge: Tena Campbell

v.

**ORDER
EXTENDING TIME TO
FILE COMMISSION'S
MEMORANDUM IN
SUPPORT OF MOTION
FOR PRELIMINARY
INJUNCTION AND
MOTION FOR ORDER TO
SHOW CAUSE**

Art Intellect, Inc., a Utah corporation, d/b/a Mason Hill and
VirtualMG, Patrick Merrill Brody, Laura A. Roser,
Gregory D. Wood

DEFENDANTS.

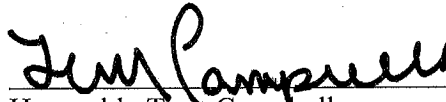
On June 20, 2011, Plaintiff, Securities and Exchange Commission (the "Commission")
filed a Motion to Extend Time to File the Memorandum in Support of Motion for Preliminary
Injunction and Motion for Order to Show Cause (the "PI Memorandum") based on resource

constraints and the absence of support personnel. Specifically, the Commission seeks a one day extension until June 21, 2011 by which to file its PI Memorandum. Counsel for Defendants Art Intellect, Inc., Patrick Merrill Brody and Laura A. Roser does not object to entry of an order extending the Commission's time to file its PI Memorandum.

IT IS SO ORDERED:

The Commission shall file its Memorandum in Support of Motion for Preliminary Injunction and Motion for Order to Show Cause on or before June 21, 2011.

Dated this 21 day of June 2011.



Honorable Tena Campbell
United States District Judge
District of Utah

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

FILED
CENTRAL DIVISION
U.S. DISTRICT COURT

* * * * *

2011 JUN 22 A 10:29

DAVID KURZ,

Case No. 2:11CV00423 DS

DISTRICT OF UTAH

Plaintiff,

BY:)

DEPUTY CLERK

vs.

ORDER

JAMES H. WOODALL, ET AL.,)

Defendants.)

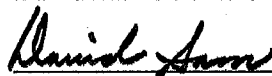
* * * * *

The Court having considered the Motions to Dismiss of Defendant James H. Woodall (Doc. #2-6), Defendant Direct Mortgage, Corp. (Doc. #6), and Defendant eTitle Insurance Agency (Doc. #9), there being no timely opposition from Plaintiff, and good cause appearing, the foregoing Motions are granted with prejudice.

Additionally, given his failure to oppose the above referenced matters, Plaintiff is directed to report to the Court in writing, within 15 days of this Order, whether he intends to pursue this case further. Failure to timely respond will result in dismissal of the remainder of this case without prejudice and without further notice to Plaintiff.

DATED this 21st day of June, 2011.

BY THE COURT:



DAVID SAM

SENIOR JUDGE

UNITED STATES DISTRICT COURT

SO ORDERED*Dee Benson***DEE BENSON**
United States District Judge

CARLIE CHRISTENSEN, United States Attorney (#0633)
 JARED C. BENNETT, Assistant United States Attorney
 Attorneys for the United States of America
 185 South State Street, #300
 Salt Lake City, Utah 84111
 Telephone: (801) 524-5682

JUN 22 2011
 BY **D. MARK JONES, CLERK**
 DEPUTY CLERK

Date 6-21-11

IN THE UNITED STATES DISTRICT COURT
 DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Case No. 2:98 CR 323-W

Plaintiff,

vs.

**MOTION TO APPLY MONEY IN
 POSSESSION OF FEDERAL
 BUREAU OF INVESTIGATION
 TO RESTITUTION**

CARL D. CONSOLVO,

Defendant.

The United States of America, through the undersigned counsel, moves for an order authorizing the Federal Bureau of Investigation ("FBI") to deliver the \$25,213.86 in United States currency that it seized from Mr. Consolvo to the Clerk of the Court to apply toward Mr. Consolvo's ordered restitution. As shown in the accompanying memorandum, the United States may enforce a restitution order "by all other available and reasonable means." 18 U.S.C. § 3664(m)(1)(A)(ii). Entering an order authorizing the FBI to provide the money it seized from Mr. Consolvo upon his arrest to the Clerk of the Court to be applied to his outstanding restitution obligations is a reasonable and available means to enforce the outstanding restitution order.

DATED this 9th day of May 2011.

CARLIE CHRISTENSEN
United States Attorney

/s/ Jared C. Bennett
JARED C. BENNETT
Assistant United States Attorney